

# Responsible Government in Canada

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*By*

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With a Preface by

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As long as you have the wisdom to keep the sovereign authority of this country as the sanctuary of Liberty the sacred temple consecrated to our common faith wherever the chosen race and sons of England worship Freedom they will turn their faces towards you Deny them this participation of freedom and you break that sole bond which originally made and must still preserve the unity of the Empire

It is the spirit of the English constitution which infused through the mighty mass feeds unites invigorates vivifies every part of the Empire even down to the minutest member

EDMUND BURKE

*Speech on Conciliation with America* Cf Hansard  
*Parliamentary Debates* 1775 Vol xviii p 534-5

## PREFACE

THIS excellent little study of the genesis of Constitutional Government in Canada is one of the best pieces of Historical Research which has been done in the University of Birmingham in recent years. Clearly and carefully, modestly but capably, with moderation of statement, with sanity of judgment, with conscientious weighing of evidence, the young and talented authoress has carried out a really useful study of a movement of deep importance. She has constantly and suggestively related the Colonial story to the British: this is an indispensable part of any proper treatment of the subject.

I would like especially to recommend the first four chapters. The first of all, on British Colonial Policy, forms a good introduction to the main part of this book. Lord Durham's mission, and the Durham Report, in Chapter III, are the natural climax of the author's whole inquiry; and I think most readers will feel that she has risen to it. I also found in Chapter IV a very satisfactory and interesting treatment, as it seemed to me, of the administration of Poulett Thomson, Lord Sydenham.

This is Miss Langstone's first historical publication. One hopes that it will not be the last.

RAYMOND BEAZLEY.

*October 1931*

## INTRODUCTION

THIS thesis is an attempt to trace, in some detail, the growth of the movement towards, and the final attainment of, self-government in Canada. Only the two provinces of Upper and Lower Canada (now called Ontario and Quebec) have been considered, as time was too short to allow of even the briefest account of the similar events which were taking place, at the same time, in the maritime provinces of Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland.

There are two distinct aspects to this great problem of responsible government, namely, the actual conditions and political events in the colony and, also, the effect which these affairs had upon the various shades of opinion in Great Britain, and upon the official policy of the Government. It has been my constant aim to show these two factors in their proper relationship, the one to the other. In Chapter I a general survey of the colonial policy of the Mother Country, with particular reference to British North America, has been attempted, together with some mention of public opinion and of the conflicting ideas of the different political parties in this country. The occasion and early growth of this most important movement in Canada has been traced, in the second chapter, until the first great climax was reached, that is, the rebellion of 1837. The two great centres of action were then closely linked in Lord Durham's mission and, thereafter, in the succeeding chapters, they have been treated side by side, since the one exercised a vital and decisive influence upon the other. The thesis concludes with the final and permanent grant of responsible government during the administration of Lord Elgin. Only the immediate results of this great change, or rather, revolution, in the general conception of empire, have been considered. To give a complete account

of all the consequences of Canadian autonomy, it would be necessary to trace until the present day, the whole subsequent history of Canada and also of the imperial policy of the parent state because colonial self government lies at the foundation of the present Dominion of Canada and has determined the attitude of all British statesmen of the later nineteenth and early twentieth centuries towards imperial ideals and aspirations

I wish to take this opportunity of expressing my warmest thanks to Sir Raymond Beazley for his valuable comments and advice To his constant encouragement and guidance I am most deeply indebted both in the execution of the work and its ultimate publication It gives me great pleasure to express my sincere appreciation of help and counsel so generously given

1931

R W L

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## CHAPTER I

### THE COLONIAL POLICY OF GREAT BRITAIN

THE demand of the people of Canada for responsible government precipitated one of the greatest crises in the history of the British Empire. So fiercely urged, so furiously denied, this cry presented itself in various forms and conditions. The underlying principle however was always the same—that the colonists themselves should be able through their representatives in the local legislature to guide and control in every particular, the whole administration of the colony. This demand was natural enough and arose out of the laws which govern the development of political communities. Was it to be expected that the descendants of a people who had won their liberties at the point of the sword, would for ever remain contented under the tutelage of a distant authority? It was inevitable that a dependency should outgrow the bonds which had guided and protected its youthful development and which in maturity retarded its prosperity and vigour and would aspire to that complete political freedom in domestic affairs which it saw exercised in the Mother Country and in the Republic at its very doors.

The result of such a movement must necessarily from its very nature depend upon the attitude of the Mother Country.<sup>1</sup> If the policy which had fostered the growth of colonial ambitions<sup>2</sup> and yet refused their ultimate fulfilment,<sup>3</sup> was rigidly and uncompromisingly maintained a violent clash must necessarily be expected. But, if the Mother Country



could, by some means, make her imperial claims conformable with the ever growing desire of the colonies for self government, a new and even stronger bond of empire might be forged based on the mutual esteem and co operation of two peoples beneficial in the highest degree to both. In the early years of the nineteenth century, therefore, the problem that lay before Great Britain was that of reconciling imperialism and democracy.

At that time, however, the colonial policy of this country was by no means of so generous sympathetic, and elastic a character as to offer an adequate and peaceful solution to that difficult and complicated question. It is easy now to blame the blindness of British statesmen in not welcoming at once, these colonies to the status of partnership which later proved to be inevitable and yet so beneficial to both. The old ideas of domination and coercion, however, died hard, and the evidence of bitter experience seemed also to point in the opposite direction. The idea of a self governing dependency remaining under the sway of the Mother Country was only very gradually perceived by a few far seeing men during the third decade of the nineteenth century<sup>1</sup>. The violent growth of the demand for responsible government was the direct result of an imperial policy, both democratic and arbitrary, generous and hard, a policy formed by the loss of an empire and the ideas of a bygone age. Thus it is difficult to understand the colonial problem, with all its baffling intricacies without some knowledge of opinion in England. Otherwise it is impossible to comprehend how the movement towards self government should have reached a fury of rebellion and then have quietly sunk to rest and have been settled a few years later almost unnoticed.

The corner stone of the colonial policy of Great Britain in the early days of the empire lay in the desire of the Mother Country to increase her commercial prosperity and activities. That aspect of colonial administration was given a definite form by Cromwell in 1651. Before that time trade with the struggling settlements in America had been free from all restrictions<sup>2</sup>. During the Civil War however, the southern colonies especially Virginia, had been royalist and rather

<sup>1</sup> Cf p 15.

<sup>2</sup> Cf the Charter of Massachusetts 1628 Cf S Lucas *Charters of Old English Colonies in America* p 41.

than aid the Roundheads, were willing to allow their trade to fall into the hands of the Dutch. Cromwell, therefore, passed the Navigation Acts, which enacted that the commodities of Asia, Africa, and America could only be imported into England or her colonies in English vessels, and such as were the products of Europe only in English vessels or in the vessels of the country from which they were imported. On this side of colonial affairs there was no difference of opinion between Roundheads and Cavaliers and, in order to encourage English shipping, Cromwell's measures were re-enacted in 1661,<sup>1</sup> and even supplemented in later years.<sup>2</sup> The results of the application of these acts was to monopolize for English shipping the carrying trade of her dependencies, while for the colonists it greatly restricted the scope of their trade. This policy was further developed in the interests of English commerce, and certain "enumerated articles" of colonial produce had to be first imported into England before they could be re-exported to foreign countries.<sup>3</sup> Grain, lumber, and fish were never, at any time, included in these enumerated articles, but, even so, more than four-fifths of colonial produce passed through English ports. In the same spirit, to prevent competition with the Mother Country, several manufactures in the colonies were suppressed or forbidden, including wool and bar iron in 1719 felt hats in 1732 molasses in 1733 and steel furnaces in 1750. This was described by Adam Smith as "a manifest violation of the most sacred rights of mankind."<sup>4</sup> On the other hand, however, the colonial products that did not rival

established English industries were carefully fostered by the Imperial Parliament,<sup>1</sup> and high protective duties secured almost complete exclusion of foreign competitors. Moreover, all attempts at growing tobacco in England were vigorously suppressed in the interests of the American colonies.<sup>2</sup> Indeed, this policy was far from being wholly arbitrary and selfish. It is true that it was intended to relegate the colonies to an entirely subordinate position within the empire, and that they should exist solely for the good of the Mother Country. And so with other countries there was also a broad and statesmanlike conception behind it. It was the direct and constant aim of the mercantilist school, whence sprang this policy, to establish an entirely self-sufficing empire. Thus it was that the colonies were expected to concentrate upon the production of goods which could not be grown in England, and not to compete with the industries of the homeland. In 1732 the colony of Georgia was established primarily with a view of supplying the empire with wine<sup>3</sup> and silk.<sup>4</sup> William Pitt was eager to grow cotton in Dominica rather than import it from the Dutch or French possessions,<sup>5</sup> and great efforts were also made to cultivate

<sup>1</sup> These protected industries included indigo, tobacco, hemp, gum, flax, raw silk, iron, pipe stoves, vegetable oils, vines, olive trees, myrtle wax, raisins, logwood, pitch, tar, and turpentine.

<sup>2</sup> Cf. *Acts of the Privy Council*, Colonial Series, vol. I, pp. 567-8, 303. These were supplemented later by Acts of Parliament. Cf. 22 George III, cap. 73. Cf. *Statutes at Large*, vol. xiv, p. 246.

<sup>3</sup> "With nobler products see thy Georgia teems,  
Cheer'd with the genial sun's director (sic) beams  
There the wild vine to culture learns to yield  
And purple clusters ripen thro' the field  
Now bid thy merchants bring thy wine no more  
Or from th' Italian or the Tuscan shore,  
No more they need th' Hungarian vineyards drain,  
And France herself may drink her best champagne;  
Behold, at last, and in a subject land,  
Nectar sufficient for thy large demand."

Cf. *A True and Historical Narrative of the Colony of Georgia in America*, by Pat Tailler and others, p. xiii, 1741.

<sup>4</sup> On the foundation of Georgia in 1732 it was estimated that the colony would produce as much silk as was obtained from Piedmont every year for £100,000. This was a most important argument in favour of the establishment of the colony. Cf. *A Brief Account of the Establishment of the Colony of Georgia under Captain James Oglethorpe*, p. 3.

<sup>5</sup> As to Dominica, nothing is so clear you ought to attend to the very beneficial cotton manufacture, but for that very reason you ought, in all policy, to supply the first material cotton yourselves and not render the basis of such a lucrative manufacture dependant on France and the first rupture"—William Pitt to Thomas Nothall, Esq., 11 May, 1766. Cf. *Chatham Correspondence*, vol. iii, p. 410.

it in the West Indies, especially Barbadoes. On the whole, therefore, the system was not so oppressive as might have been expected.<sup>1</sup> The limitation to British manufactured goods was but a slight hardship as they were easily the cheapest and best, while the suppression of colonial manufactures caused little pecuniary loss to the settlements<sup>2</sup> where "plenty of good land and liberty to manage their own affairs in their own way seem to be the two great causes of the prosperity of all new colonies."<sup>3</sup> Thus the American colonies prospered and grew, for, indeed, that exclusive policy was merely characteristic of the prevailing tendencies of the age. Even Adam Smith declares that, "though the policy of Great Britain with regard to the trade of her colonies has been dictated by the same mercantile spirit as that of other nations, it has, however, upon the whole, been less illiberal and oppressive than any of them."<sup>4</sup>

If the commercial activities of the colonists were hedged about with restrictions in favour of the Mother Country, they were allowed the greatest liberty in the regulation of their own domestic affairs. During the seventeenth century, when the foundations of England's empire and policy were laid, it was a fundamental principle that an Englishman carried his rights with him wherever he went. Even the arbitrary Charles I, in his Charter to Maryland in 1632, secures to the settlers "all liberties, franchises, and privileges of this our kingdom of England"<sup>5</sup> In this early period several experiments were made in the colonial constitutions, which varied considerably in the different settlements. The normal constitution of a Crown Colony, however, was to some extent a copy of the institutions at home, being composed of a governor, appointed in England, a nominated council, and a popularly elected assembly.<sup>6</sup> In some of the other colonies, the government

<sup>1</sup> "In the disposal of their surplus produce or of what is over and above their own consumption, the English colonies have been favoured and have been allowed a more extensive market than those of any other European nation"—Adam Smith, *op cit*, book iv, chapter vii, p. 258

<sup>2</sup> "Unjust, however, as such prohibitions may be, they have not hitherto been very hurtful to the colonies"—Adam Smith, *op cit*, book iv, chapter vii, p. 261

<sup>3</sup> Adam Smith, *op cit*, book iv, chapter vii, p. 256

<sup>4</sup> Adam Smith, *op cit*, book iv, chapter vii, p. 262

<sup>5</sup> S. Lucas, *op cit*, p. 92

<sup>6</sup> "A Council, nominated by the King and possessing a co-ordinate right of legislation with the representatives of the people, is an invariable part of British colonial constitutions in all the transatlantic possessions of the Crown,

was even more democratic, as in Connecticut and Rhode Island where the governor and the executive officers were popularly elected.<sup>1</sup> But whatever form the constitution took there was no interference in their domestic affairs and even upon so controversial a problem as religion the utmost freedom was permitted. The religious sects proscribed in England were allowed to flourish in the different states of America in so far as the colonists themselves desired. Indeed politically the American colonies were really self governing communities which offered a nominal and highly independent allegiance to Great Britain. In everything except their foreign trade the liberty of the English colonists to manage their own affairs their own way is complete. It is in every respect equal to that of their fellow-citizens at home and is secured in the same manner by an assembly of the representatives of the people who claim the sole right of imposing taxes for the support of the colonial government.<sup>2</sup> No doubt the distance between the Mother Country and her daughter states across the ocean fostered the development of this policy but even so I think it sprang in the first place at least more from principle than from neglect. In short our ancestors cared nothing for the control of the internal government of the colonies but only for the regulation of their commerce which was jealously guarded in the interests of Great Britain.<sup>3</sup>

By the beginning of the eighteenth century all the experiments in different varieties of government in the settlements in

with the exception of those which still remain able to the legislative authority of the King in Council. —Sir Robert Peel Cf Hansard *Parliamentary Debates* 1836 vol xxxiii p 947

<sup>1</sup> That for the better ordering and managing of affairs and business of the said company and their successors there shall be one governor one deputy governor and twelve assistants to be from time to time constituted elected and chosen out of the freemen of the said company for the time being in such manner and form as hereafter in these presents expressed which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of and concerning the lands and hereditaments hereinafter mentioned to be granted and the plantation thereof and the government of the people thereof —Charter given to Connecticut in 1662 Cf S Lucas op cit p 48 Note also Charter to Massachusetts 1628 lb d p 38

<sup>2</sup> Adam Smith op cit book iv chapter vii p 262

<sup>3</sup> They had a right to self government and self taxation a right to religious freedom in the sense which they chose themselves to put upon the word a right to construct their municipal policy as they pleased but no right to control or amend the slightest fiscal regulation of the imperial authority however oppressively it might bear upon them —Herman Merivale *Lectures on Colonies and Colonialism* p 204

America had come to an end, and a uniform system of government, like that of the Crown Colonies,<sup>1</sup> had been established. This system prevailed everywhere, except in Rhode Island and Connecticut, which remained completely self-governing. No increased interference on the part of the Mother Country accompanied this reorganization, and, concerning the domestic affairs of the colonies, the administration of England "was slow, ineffective, and characterized by a prevailing official attitude of indifference and irresponsibility."<sup>2</sup> As the century progressed, however, a slight change gradually appeared in the attitude of Great Britain towards her colonies which often passes unnoticed. The mercantilist policy was no longer so rigidly upheld, and the real basis, therefore, of the colonial administration began to weaken. In 1731, rum and sugar were omitted from the enumerated articles, and Walpole also allowed rice to be exported from the province of Carolina directly, to any port, south of Cape Finisterre.<sup>3</sup> These were very considerable concessions to the colonists, and greatly increased their prosperity. The slight loosening of the economic bonds, however, was not followed by any dislike of colonial possessions. Indeed the reverse was true, for a new conception seemed to have been slowly forming in England which regarded the colonies as something more than markets for English goods. This tendency was exemplified in the career of William Pitt, Earl of Chatham, who carried the imperial ideal so high in the Seven Years War. But in the glorious victories of those years lay the seeds of future disruption. In England, Chatham's soul-stirring oratory and great achievement had aroused a new pride and interest in the empire which now stretched largely over India and America. This visionary enthusiasm gave strength to the new conception of empire which had been gradually forming unnoticed during the earlier years of the century. The trouble with the thirteen colonies came too soon to allow this new tendency to be fully developed, but as expressed by Dr Johnson<sup>4</sup> and the parliamentary orators of the Grenville

<sup>1</sup> Cf. p. 5. <sup>2</sup> *The Cambridge History of the British Empire* vol. I p. 417.

<sup>3</sup> George II. cap. xxviii. Cf. *Statutes at Large* vol. vi p. 35.

<sup>4</sup> "it will not be doubted but the Parliament of England has a right to bind them by statutes and to bind them in all cases whatsoever and has therefore a natural and constitutional power of laying upon them any tax or impost whether external or internal upon the product of land or the manufactures of industry in the exigencies of war or in the time of profound peace for the defence of America for the purpose of raising a revenue or for any other end beneficial to the empire — Dr Johnson *Taxation no Tyranny* also in *Dr Johnson's Political Tracts* pp. 201-2.

Party,<sup>1</sup> it implied a far stricter hold over all colonial affairs. 'He that accepts protection, stipulates obedience. We have always protected the Americans: we may therefore subject them to government.'<sup>2</sup> There was a desire to tighten the bonds which connected the colonies with the Mother Country, and to make the empire one single united body by causing the guiding hand of Great Britain to supervise and shape the destinies of the settlers even in the farthest parts. This new interest in the colonies and the desire for greater control over their affairs is seen in the creation of a special secretary of state for the colonies in 1768.<sup>3</sup> On the other hand, the American colonists, freed from the menace of the French, were able to adopt a far more independent attitude, and to demand far greater concessions than they would otherwise have dared to suggest. Moreover, during former years when Britain had taken no interest in the domestic affairs of the colonies, 'the prerogative had lost its force and its importance, and the representative assemblies, themselves doing what Parliament had done a century before, had become the centres of actual government.'<sup>4</sup> It was the failure of the British Government to realize that fact and to find a solution whereby equality might be substituted for subordination and subservience together with the ever-growing irksomeness of the commercial system and the entire lack of sympathy between the Old World and the New that precipitated the disastrous movement which ended in the severance of the thirteen colonies.

The actual steps in that struggle are well known, and are not relevant to our subject. The results, however, of that successful rebellion had a momentous effect upon the colonial policy of Great Britain. 'To prevent the further dismemberment of the empire became the primary object with our statesmen.'<sup>5</sup> Contemporary politicians saw, as one of the chief causes of the rebellion, the attempt to obtain from the colonies an imperial revenue. Hence the announcement of William Pitt in 1791,

<sup>1</sup> As relates personally to me I have done my duty by endeavouring to assert the sovereignty of the King and Parliament of Great Britain over all the dominions belonging to the Crown and to make all the subjects of the Kingdom contribute to the public burthens for their own defence according to their abilities and situation. —George Grenville to Mr Pownall 17 July 1768. Cf. *The Grenville Papers* edited by W. J. Emslie vol. iv pp. 317-18.

<sup>2</sup> Dr Johnson *The Patriot*. Cf. *Dr Johnson's Political Tracts* p. 161.

<sup>3</sup> Cf. p. 17.

<sup>4</sup> *The Cambridge History of the British Empire* vol. i p. 436.

<sup>5</sup> Lord Durham's Report edited by Sir C. F. Lucas vol. II p. 65.

by coercive measures occasionally became ludicrous. Inter-course with the United States was discountenanced, and the colonists were ordered to leave the borderlands in a state of wilderness to prevent contamination.<sup>1</sup> In the same spirit the right and policy of interfering in the domestic affairs of the colonies was insisted upon, whenever possible, and the Imperial Parliament strove to exercise "a sort of paternal jurisdiction in forming and training the political society of the colonists."<sup>2</sup> The French Revolution, following the American revolt, cast a sinister shade over all democratic ideas and institutions and thus indirectly gave strength to the new movement towards colonial despotism. The Revolutionary and Napoleonic wars tightened the military defences of the empire, and created fresh sinews for a closer union. Thus, although the American War of Independence taught British statesmen not to impose taxes on dependencies it led to a closer and more rigid union of empire and to the adoption by the Mother Country of a far more autocratic and meddling policy.

This policy did not meet with universal approval in England. It was very largely a Tory conception, being established by William Pitt and then fully developed and maintained by the long Tory administrations in the early years of the nineteenth century. The Tories were determined to maintain the empire if it was in any way possible while the other parties advocated a more generous and democratic policy even if it should lead to separation. This cry for a more liberal colonial administration was principally urged by the Whigs amongst whom the tradition of Chatham was still alive. Hence the Whig governments were generally characterized by generous concessions to the colonists as notably in 1831.<sup>3</sup> Such actions invariably raised hopes which were however, never fully realised. In this connection it may be well to note the general uncertainty of the colonial policy. All colonial affairs were entirely subject not to the wants and circumstances of the province but to party feeling in England and no one knew how soon some hidden spring might be put in motion in the Colonial Office in England which would defeat their best laid plans and render utterly unavailing whole years of patient effort.<sup>4</sup> Besides retarding the develop-

<sup>1</sup> Dispatch of Lord Bathurst the Colonial Secretary of 1 July 1816  
Cf. W. Kingsford *History of Canada* vol. II pp. 40-2

<sup>2</sup> Herman Merivale op cit p. 628

<sup>3</sup> Cf. p. 40

<sup>4</sup> Lord Durham's Report vol. II p. 193



ment of the province, thus general changeability of purpose had a most disastrous effect upon the temper of the colonists, irritating loyalists, and exasperating and angering malcontents. In 1834, it was the sudden alteration in the trend of colonial policy that turned William Lyon Mackenzie from peaceful reform to that dangerous path that finally led to rebellion.<sup>1</sup> Men of all parties "ask for greater firmness of purpose in their rulers and a more defined and consistent policy on the part of the Government something, in short, that will make all parties feel that an order of things has been established, to which it is necessary that they should conform themselves, and which is not to be subject to any unlooked for and sudden interruption consequent upon some unforeseen move in the game of politics in England."<sup>2</sup>

A more vehement and even more determined opposition to the general attitude of the Colonial Office came from the Radicals. Led by Joseph Hume<sup>3</sup> and John Arthur Roebuck,<sup>4</sup> they vigorously supported all the claims of the colonists, even during a period of rebellion against the Mother Country.<sup>5</sup> "It was the unjust conduct of the House of Commons and the violation of the rights of the whole province of Canada that had led to the bloodshed that had taken place"<sup>6</sup> The opposition of the Radicals, however, was rather different from that of the Whigs. Whereas the latter merely wished to alter the existing policy, in certain particulars, in order to give the colonies more freedom of action, the former desired to get rid of the colonies altogether. They continually declared "that the colonies, instead of being an addition to the strength of the country, increased its weakness and that it would be better able to cope with any contingency which might arise if those colonies were freed from their allegiance and became their own masters."<sup>7</sup> In this connection the arguments of the Radicals were largely based on the great expense entailed in the maintenance of a great empire. In 1838, Lord Brougham<sup>8</sup>

<sup>1</sup> Cf pp 60 1

<sup>2</sup> Lord Durham's Report vol II p 192

<sup>3</sup> Cf Appendix C also pp 20 45 51 59 61

<sup>4</sup> Cf pp 13 16 21 116 150

<sup>5</sup> "In our present conflict with the Canadians the people are not rebels it is the Crown or Government which is in a state of rebellion against them"

The English are now about to incur the onus of an increased debt for maintaining a contest in which defeat will be honourable and triumph infamous — *Weekly Despatch*, 7 January, 1838

<sup>6</sup> Joseph Hume Cf Hansard 1838 vol XI pp 54-5

<sup>7</sup> Hansard 1823 vol VIII p 250

<sup>8</sup> Cf p 178

declared that the government and defence of Canada costs us considerably more than half a million a year"<sup>1</sup> Mr Warburton<sup>2</sup> one of the leading Radicals said that what he 'objected to was taxing the people of this country for the purpose of extending a territorial empire which could not be maintained'.<sup>3</sup> The outcry became even louder if it was proposed to lend money for the internal development of a colony.<sup>4</sup> Even the commercial privileges, which, to some extent, mitigated the rigours of the economic policy, were heavily censured as an indirect tax upon the people of this country.<sup>5</sup> "The Canadian timber monopoly was continually declared to be a good example both of an abuse and an evil in colonial possessions".<sup>6</sup> Herman Merivale<sup>7</sup> in his interesting lectures on colonial affairs given before the University of Oxford during the years 1839-40-41, states, We give them (i.e. the colonists) commercial advantages and tax ourselves for their benefit in order to give them an interest in remaining under our supremacy that we may have the pleasure of governing them'.<sup>8</sup>

In spite of all these attacks this arbitrary system of colonial

<sup>1</sup> Hansard 13 January 1838 vol xl p 214

<sup>2</sup> Cf *Dictionary of National Biography* vol lxx pp 296-7

<sup>3</sup> Hansard 1831 vol ii p 374

<sup>4</sup> On the proposal to construct the Rideau Canal in Upper Canada Mr Warburton said: "If there was any trade ever carried along this canal it would be a forced trade and if so it would be a loss to the Mother Country. He did not mean to assert that the colony would not receive benefit from the formation of the canal but the benefit it would receive would be a loss to the parent state. He was quite certain that if £250,000 were expended every year on the roads in the neighbourhood of the metropolis a greater national benefit would be conferred on the country than any that could ever accrue from the formation of this expensive canal in Canada."—Hansard 1831 vol ii p 372

<sup>5</sup> But besides all this we have to pay 55s duty on the excellent timber of the Baltic in order that we may be compelled to use the bad timber of Canada at a higher price on a 10s duty. The severance of the colony would not only open our markets to the better and cheaper commodity which grows near our own doors but would open the Baltic markets to our manufactures restrained as they now are in their export to the north of Europe by the want of any commodities which we can take in return.—Lord Brougham in the House of Lords 18 January 1838 Cf Hansard 1838 vol xl p 214

<sup>6</sup> Sir William Molesworth in the House of Commons 6 March 1838 Cf Hansard 1838 vol xli p 481

<sup>7</sup> Herman Merivale was born in 1806. In 1837 after spending some years at the Bar he was elected to a professorship of Political Economy at Oxford. His lectures upon the colonies made such a great impression that in 1847 he was appointed permanent Assistant Under Secretary of State for the Colonies. The next year he succeeded Sir James Stephen as permanent Under Secretary. In 1859 he was transferred to the permanent Under Secretaryship for India with the distinction of C.B. and he held the office for his life. He died in 1874.

<sup>8</sup> Herman Merivale op cit p 78

administration, with its many failings, lingered on, owing mainly to the fact that the attitude of the general public towards the colonies was one of supreme indifference. "A railway or turnpike Bill ordinarily interests more members than any measure affecting the most vital interests of our most important colonies."<sup>1</sup> The disillusionment following the American War of Independence was still strong, and it was generally thought that, once grown to maturity, the dependencies would automatically separate themselves from the empire.<sup>2</sup> It was, therefore, felt that colonies were a hindrance, and a nuisance, and the less notice taken of them the better.<sup>3</sup> The Radicals, very naturally, eagerly supported and disseminated such views. "Whatever may be the course we may pursue, the time must inevitably come when our American colonies will become independent states."<sup>4</sup> Indeed, so low had the imperial ideal fallen that even the Tories, in spite of their desire to maintain the empire in its integrity as long as possible, showed, on occasions, that they, too, had no real faith in its permanence. In 1828, Huskisson, the Colonial Secretary in a Tory Government, said: "Whether Canada is to remain for ever dependent on England, or is to become an independent state—not I trust by hostile separation, but by amicable arrangement—it is still the duty and interest of this country to imbue it with English feeling and benefit it with English laws and institutions."<sup>5</sup> In the same debate another Tory, Mr Stanley, expressed the same doubts. "If ever the Canadas separated from this country, as they must, some day or other, it was still in our power to retain their friendship."<sup>6</sup>

<sup>1</sup> Charles Buller *Responsible Government for Colonies*, p. 140

<sup>2</sup> "The colonies of North America have taught us a lesson on that head by which we ought to profit. In truth it is pretty much with colonies as with children: we protect and nourish them in infancy; we direct them in youth, and leave them to their own guidance in manhood; and the best conduct to be observed is to part with them on friendly terms, offer them wholesome advice and assistance when they require it, and keep up an amicable intercourse with them."—*Quarterly Review*, April 1829, p. 341

<sup>3</sup> "... he observed in this country, for some length of time, a growing desire to get rid of their North American dominions—a desire that they should become republics. This desire prevailed amongst a very large party in this country. He was aware that there were also others, for whom he entertained the highest respect, who felt a desire that separation should take place, tranquilly if possible, but that, at all events, it should take place. In his opinion these gentlemen were mistaken."—Duke of Wellington in the House of Lords. Cf. Hansard, 1840, vol. lv, p. 240

<sup>4</sup> John Arthur Roebuck in the House of Commons. Cf. Hansard, 1837, vol. xxxvii, p. 1210

<sup>5</sup> Hansard, 1828, vol. xix, p. 316

<sup>6</sup> *Ibid.*, p. 389

Such, then, was the state of opinion in England, during the years when Canada was growing from a few scattered townships to one of our most important colonies<sup>1</sup>—a time in which imperialism reached its lowest depths. This had a great effect upon the course of events in Canada, and contributed, in no small degree, to the ever-growing demand for responsible government. The inefficiency of the colonial administration was clear to many in England and to nearly all in Canada. There was no definite goal to which a minister might direct his policy either in the dependency or in the dominant country. It was an essentially unprogressive and stagnant system without any life or vitality whatsoever. Even its virtues, the sincere desire of all Englishmen for the general well being of the colonists, encouraged the growth of that movement by which alone complete prosperity could be attained. Many who supported William Lyon Mackenzie in his constant agitation only did so in the hope of coercing the Mother Country into granting their demands<sup>2</sup>. Long before the great crisis of 1837, farseeing critics in England had realized that a change of policy was essential if the empire was to be maintained. In this respect the views of Sir James Mackintosh<sup>3</sup> are of especial interest as foreshadowing to some extent, the ideas of Lord Durham and his co-reformers. "My maxims of colonial policy are few and simple. A full and efficient protection from all foreign influence, a full permission to conduct the whole of their own internal affairs, compelling them to pay all the reasonable expenses of their own government and giving them, at the same time a perfect control over the expenditure of money and imposing no restrictions upon the industry or traffic of the people. Those are the only conditions which I would impose in the bond of alliance with the metropolitan government, and the only terms upon which I wish that all of

<sup>1</sup> From 1824 to 1838 the population of Canada increased from 150 066 to 399 422—nearly threefold.

<sup>2</sup> That they have mistaken British generosity for fear no one is more persuaded than myself. —Sir Francis Bond Head *A Narrative* p. 91.

<sup>3</sup> He was the advocate of a wide and candid Liberalism and although opposed to the Tories he was no extremist and not likely to be swayed by party feeling against his better judgment. In 1812 Mackintosh entered Parliament in the Whig interests. He followed and succeeded Romilly in urging the reform of the criminal code and took a leading part in the struggle for Catholic emancipation and the Reform Bill. His literary efforts which included a *Dissertation on the Progress of Ethical Philosophy*, the *History of the Revolution in England* and more especially his *Indicæ Gallicæ* brought him great fame. He died in 1832.

them should be governed. Those too are the only means by which the hitherto almost incurable evil of all distant governments can either be mitigated or removed."<sup>1</sup>

That the existing policy was altered and the drift towards separation averted was due, entirely, to the work of Edward Gibbon Wakefield<sup>2</sup> and his disciples. No stranger figure could be found than that of Wakefield. He was born in 1796, of good stock, and he aspired, for a time, to be a man of fashion and a diplomat. Married at twenty, and soon left a widower, he tried to improve his fortunes by abducting an heiress. For this he was sentenced to three years' imprisonment, which proved the turning point in his life. During this period of confinement he wrote his famous *Letter from Sydney*, which embodied the doctrines that he spent the rest of his life trying to promote. It dealt mainly with his economic theories, which form no part of our subject, but it also led to the formation, in 1830, of the Colonization Society. In Wakefield's own words, "they were an unknown and feeble body, composed chiefly of very young men, some of whose names, however, have long ceased to be obscure, whilst others are amongst the most celebrated of our day. . . . the outside number of the founders of the society did not pass a dozen, the great public was either hostile or indifferent to their views."<sup>3</sup> If the ideals he put forward did not affect the general public, they did impress the leading thinkers and youthful politicians of the day. John Stuart Mill lent his support to the movement, and amongst Wakefield's most brilliant disciples, we have Lord Durham,<sup>4</sup> Charles Buller,<sup>5</sup> and Sir William Molesworth<sup>6</sup> the last two being also members of the Colonization Society. These colonial reformers realized to the full the defects of the existing system, and, also, that it was possible to find an alternative to

<sup>1</sup> Hansard 1828 vol xix p 320

<sup>2</sup> Cf. *Encyclopædia Britannica* (fourteenth edition) vol xxiii p 285  
<sup>3</sup> *A Dictionary of National Biography* vol lviii p 449

<sup>4</sup> Edward Gibbon Wakefield *The Art of Colonization* p 40

<sup>5</sup> Cf. p 74

<sup>6</sup> Charles Buller (1806-48) was born in Calcutta but was educated in England first at Harrow then privately by Thomas Carlyle and afterwards at Trinity College Cambridge. He sat in Parliament from 1830 until his death in 1848. An eager reformer and friend of John Stuart Mill he went to Canada with Lord Durham as his private secretary and always took a great interest in all colonial matters. In 1846 Buller was made Judge Advocate-General and became Chief Commissioner for the Poor Law about a year before his death. Buller was witty, popular and generous and is described by Carlyle as "the gentlest Radical I have ever met."

<sup>7</sup> Cf. Mrs Fawcett *Life of Sir William Molesworth*

the arbitrary policy of the Tories other than the inglorious separation offered by the Radicals. They, therefore, 'framed a theory'. This theory was carefully divided into two parts, 'into matters economical, such as the selection of poor emigrants or the disposal of waste land and into matters political, such as the effects of extensive colonization on home politics, or on the nature of colonial government'.<sup>1</sup> It was the strong point of these reformers that they linked together two objects which were generally kept apart—that is increased prosperity in the colonies and amelioration of conditions in England. During the first half of the nineteenth century generous minds were appalled at the want and squalor existing in all large towns and it became an avowed aim of these new theorists to help to minimize distress by drawing off in an orderly and systematic manner, all the surplus population to the colonies.<sup>2</sup> The second aim was absolutely imperial, for it aimed above all at the growth and ever increasing prosperity of Greater Britain. They desired however, a genuine and permanent expansion by granting to all the colonies those free institutions which were the proud heritage of Englishmen at home.

To realize these aims a general and continual attack was made upon the existing system. In this they were aided by the Radicals although their ultimate aims were so essentially different. Later however, as a result of this close co-operation the Reformers won many converts from the Radical Party. One of the most notable was John Arthur Roebuck, who, in contrast to his previous utterances<sup>3</sup> wrote in 1849 "The people of this country have never acquiesced in the opinion that our colonies are useless, and they look with disfavour upon any scheme of policy which contemplates the separation of the Mother Country from the colonies".<sup>4</sup> Roebuck's change of opinion was truly remarkable, and illustrates the very close alliance which existed between the Radicals and the Reformers. Whereas, however the Radical Party concentrated their attack upon the expense entailed in the maintenance of empire<sup>5</sup> the followers of Wakefield directed their efforts against the

<sup>1</sup> Edward Gibbon Wakefield *The Art of Colonization* p. 43.

<sup>2</sup> This was excellently developed by Charles Buller in his speech on systematic colonization in the House of Commons on 6 April 1843. Cf. Hansard 1843 vol. lxxviii p. 484 seq.

<sup>3</sup> Cf. pp. 11, 13.

<sup>4</sup> John Arthur Roebuck *The Colonies of England* p. 8.

<sup>5</sup> Cf. pp. 11, 12.

Colonial Office, the inefficient administration of which was exposed with bitter and merciless clarity. From the misgovernment of Downing Street the Reformers deduced much of the discontent in the colonies and, finally, a remedy for all abuses.

A short survey of the history of the Colonial Office may help in understanding the position of that office in the early years of last century. The first attempt at centralized administration in colonial affairs was made in 1660. In July, a committee of the Privy Council for the Plantations was appointed,<sup>1</sup> followed, in December, by further letters patent creating a Council of Foreign Plantations. The chief duties of this committee were as follows: to require governors to send an account of their affairs and of the constitution of their laws and governments, to order and settle a continual correspondence with governors, to see care was taken to propagate the gospel, to send strict orders and instructions for reforming and regulating the conduct of the planters and their servants, and to inquire into the governments of foreign plantations and, if good and practicable, to apply them to our own colonies. In 1672, this council was united to the Council for Trade, which then became known as the Council for Trade and Plantations. This shows quite clearly how exclusively a commercial view was taken of the colonies at that time. In 1677, this council was suppressed and its duties were transferred to the Privy Council. This arrangement, however, proved impracticable and, in 1695, it was reorganized on its former basis, in which form it existed until 1782. Owing to the increase of business in connection with the North American Colonies, and also as a result of the new spirit of imperialism which was slowly growing up in England, a Secretary of State for the Colonies was established in 1768. This office existed side by side with the Council for Trade and Plantations, until the conclusion of the War of Independence put an end to them both. In 1782, Burke's Act, abolishing this office of Secretary of State, empowered a committee of the Privy Council to exercise all the functions hitherto wielded by the Council of Trade and Plantations.<sup>2</sup> Pending the appointment of such a committee, colonial affairs were to be conducted by a subordinate branch of the Home Office styled the "Office for Plantations." During the years 1784 to 1786, however,

<sup>1</sup> *Acts of the Privy Council* Colonial Series vol. 1 p. 295

<sup>2</sup> 22 George III cap. 82. Cf. *Statutes at Large* vol. xiv pp. 262-8

distance made it impossible for them to act with necessary promptitude, and the crisis had often passed and settled itself for good or evil before the imperial instructions arrived. Thus "the real vigour of the executive has been essentially impaired: distance and delay have weakened the force of its decisions: and the colony has, in every crisis of danger, and almost every detail of local management, felt the mischief of having its executive authority exercised on the other side of the Atlantic."<sup>1</sup>

Nor had anything been gained by making Downing Street the centre of colonial government. The British public and Parliament knew so little of conditions in the far-distant communities that their supervision of colonial affairs was purely nominal.<sup>2</sup> The repeated changes at the Colonial Office, occasioned by party manœuvres at home, left to most representatives of that department too little time to acquire even an elementary knowledge of the conditions of the communities for whom they were to legislate.<sup>3</sup> The persons who had the real management of affairs were the permanent and entirely irresponsible clerks of the Colonial Office. "Thus the real government of the colony has been entirely dis severed from the slight nominal responsibility which exists."<sup>4</sup> One of the greatest evils arising from this system of irresponsible government was the mystery with which the motives and purposes of the governors and the Imperial Parliament were hidden, even from the colonists themselves. "The most

irritation and individual grievance His ignorance of the real state of affairs in the colony, his habit of routine, his dependence on secret cliques, and interests at home, produce an invariable tendency on his part to stave off the decision of every question referred to him"—Charles Buller *Responsible Government for the Colonies* pp. 58-9

<sup>1</sup> Lord Durham's Report, vol. II, p. 103.

<sup>2</sup> "Thus from the general indifference of Parliament on Colonial questions, it exercises in fact hardly the slightest efficient control over the administration or the making of laws for the colonies. In nine cases out of ten it merely registers the edicts of the Colonial Office in Downing Street."—Charles Buller: *Responsible Government for the Colonies*, p. 143.

<sup>3</sup> From 1827 until 1835 there were eight changes in the Colonial Office

1827 F. R. Robinson, afterwards Earl of Ripon

1827 William Huskisson

1828 Sir George Murray

1830 Viscount Goderch, afterwards Earl of Ripon

1833 E. C. Stanley, afterwards Earl of Derby

1834 Thomas Spring-Rice, afterwards Lord Monteagle

1834 Earl of Aberdeen

1835 Charles Grant, afterwards Lord Glenelg

<sup>4</sup> Lord Durham's Report, vol. II, p. 103.



important business of the government was carried on not in open discussions or public acts, but in secret correspondence between the Governor and the Secretary of State"<sup>1</sup> This mystery was often only dispelled after the greatest alarm had been created in the province. The colonists were often the last to hear of decisions which most vitally affected them.<sup>2</sup>

This point of view was vigorously maintained by all the Colonial Reformers and their Radical allies. They were convinced that the discontent in the colonies was the result of continual mismanagement at home.<sup>3</sup> In vigorous speeches in the House of Commons Sir William Molesworth in 1838, reiterated the condemnation of Lord Durham. "The same system of colonial misgovernment which was pursued by the Tories has been acted upon by the Whigs. The causes for the continuance of the same colonial system under ministers of the most adverse principles, were easily to be explained. The Colonial Secretary seldom remained long enough in his office to become acquainted with the concerns of the numerous colonies which he governed. In the last ten years there had been no less than eight different colonial secretaries. They had seldom therefore the time and still more seldom, the inclination to make themselves acquainted with the complicated details of their office. Their ignorance rendered them mere tools in the hands of the permanent under secretaries and clerks. It was in the dark recesses of the Colonial Office—in those dens of speculation and plunder that the real and irresponsible rulers of the millions of inhabitants of our colonies were to be found."<sup>4</sup> Charles Buller bitterly satirized and exposed the weaknesses of the colonial ad-

<sup>1</sup> Lord Durham's Report vol. II p. 107

<sup>2</sup> An excellent example of such misgovernment is seen in Sir John Colborne's establishment of rectories in 1836 cf. p. 65 seq. It fell as a crushing and unexpected blow upon the colonists although it had been fully discussed previously in the dispatches between the various governors and the Colonial Office.

<sup>3</sup> Why sir ten years ago I foretold it [i.e. the Rebellion] When on the opposite side of the House I recommended that the colonies of Upper and Lower Canada should be separated amicably from this country. On that occasion I stated that if the policy which had been hitherto followed in Canada were continued it must ultimately lead to resistance and separation. I foretold that as soon as I beheld the blind and narrow policy which this country was adopting towards those colonies. Ever since my attention has been directed towards the state of our colonies in North America I have seen nothing but misrule on the part of this country.—Joseph Hume in the House of Commons 17 January 1838 Cf. Hansard 1838 vol. XI p. 129

<sup>4</sup> Hansard 1838 vol. XI p. 385

England nevertheless the difference of opinion is interesting and instructive. It shows the stubborn opposition that the Reformers had to face in dispelling the old ideas, and that, in spite of the general indifference towards colonial possessions there were still intelligent and thoughtful persons who really believed that the existing system was best for the welfare and preservation of the Empire.

It was only in their attack upon the existing system that Radicals and Colonial Reformers worked together. Their solution of the difficulties was quite different. The former advocated a rapid but if possible, peaceful separation,<sup>1</sup> but the latter were determined to maintain the Empire in its full integrity. The Colonial Reformers realized that it would be utterly useless to attempt to patch up the existing system, for, however diligent and careful it might be it could never reach that maximum level of efficiency which, alone, would satisfy the energetic and progressive settlers of the New World. They also perceived that, however well meaning the colonial ministers might be, their rule must inevitably be greatly inferior to that of the people on the spot. Charles Buller explains this by saying that the Colonial Assembly ought to know whom to appoint to the various offices better than the governor or statesmen in far off England and, indeed, if their choice was bad then they, alone, are the sufferers.<sup>2</sup> All the abuses noticed before, could be remedied and the administration made highly acceptable to the colonists if responsible government was granted to them. The Reformers were convinced that the colonies should be allowed complete control over their own internal affairs, should be allowed to choose and direct policy, and also nominate the public officers who should be responsible to the Assembly for all their actions. These views held by all the Reformers, found supreme expression in Lord Durham's Report.<sup>3</sup> "We want colonies in order to have customers for our trade and a field for our surplus capital and labour. Those are the sole objects for which we maintain colonies."<sup>4</sup> There was, therefore, no reason whatever why Great Britain should interfere in the affairs of the colonies except for the direction of foreign affairs, trade, immigration and waste lands. The Reformers had clearly

<sup>1</sup> Cf. p. 11 seq.

<sup>2</sup> Charles Buller *Responsible Government for the Colonies* p. 126

<sup>3</sup> Cf. chapter iii.

<sup>4</sup> Charles Buller *Responsible Government for the Colonies*, p. 10

shown that the existing system did not add either to the authority<sup>1</sup> or prosperity of Great Britain,<sup>2</sup> while, at the same time, it obviously retarded the development of the colonies.<sup>3</sup> The remedy they offered gave the colonists the greatest opportunities for prosperity and happiness, while in no way did it impair the real and fundamental basis of the power of the Mother Country.

More important, however, than the technical details of the proposed reform was the new spirit which Wakefield's teaching breathed into colonial affairs. The innate truth of Adam Smith's verdict upon the Empire was, at last, realized. "The rulers of Great Britain have for more than a century past amused the people with the imagination that they possessed a great empire on the other side of the Atlantic. This empire, however, has hitherto existed in imagination only. It has hitherto been not an empire, but the project of an empire, not a gold mine, but the project of a gold mine." "In place of the arbitrary yet uncertain and timid Tory policy and the inglorious suggestions of the Radicals, a new conception of empire was held up before the eyes of Great Britain. The real value of colonial possessions was, for the first time, clearly perceived to be 'the rightful patrimony of the English people, the ample appanage which God and Nature have set aside in the New World for those whose lot has assigned them but insufficient portions in the Old'.<sup>4</sup> An empire presenting a united front to the outside world and yet composed of many self-governing communities, bound only by the ties of mutual interest and affection, was the avowed ideal of these Reformers.<sup>5</sup> They came as a new hope and guidance to a cynical and despairing generation. The success of such a small body of men, brilliant though they were, was due to the great inspiration which they acknowledged and which they set before the eyes of Great Britain.

<sup>1</sup> Cf. p. 19 seq.

<sup>2</sup> Cf. pp. 11-12.

<sup>3</sup> A comparison with the teeming prosperity of the United States always aroused the discontent of the Canadians who felt they ought to be sharing it. This is excellently seen in Lord Durham's Report vol. II pp. 212-13.

<sup>4</sup> Adam Smith op. cit. p. 903.

<sup>5</sup> Lord Durham's Report vol. II p. 13.

<sup>6</sup> Under wise and free institutions these great advantages may yet be secured to your Majesty's subjects and a connexion secured by the link of kindred origin and mutual benefits may continue to bind to the British Empire the ample territories of its North American Provinces and the large and flourishing population by which they will assuredly be filled. Cf. Lord Durham's Report vol. II p. 13.

## CHAPTER II

### THE ORIGINS OF THE STRUGGLE FOR RESPONSIBLE GOVERNMENT

In the early eighteenth century there were two definite types of colonies in North America the French and the English, presenting a remarkable contrast to each other. The division between them was not limited to race language, customs, and laws but was intensified by the method of colonization. The French colonization had been the work of the State, and was, therefore rigidly controlled by the Home Government.<sup>1</sup> It had been the great aim of French imperialists to reproduce, in the New World conditions exactly like those in the Old. In this they had been successful and the system under which the colonists lived was, in essence the feudalism of the Old World. The French peasant tilled his land just as he would have done in France, owed implicit obedience to his seigneur, and was arbitrarily ruled by the representative of the king. Although this system was vigorously condemned by Lord Durham,<sup>2</sup> it eminently suited the French peasant who had known no other. He had no voice in the government, and he desired none. Devotedly loyal to the Roman Catholic Church and to his king he was taught to obey both implicitly, and thus he did willingly all his life. The conditions in the British colonies however, offered a remarkable contrast. There the colonists were the descendants of men who had come out into the New World in order that

their own way—a way which was often at variance with the policy of the Home Government. They were reared amid free institutions, both political and religious,<sup>1</sup> and were fiercely jealous of any encroachments upon their privileges, real or supposed, even by the Imperial Crown. Often self seeking and narrow in outlook, they were always conscious of their rights as free citizens of the British Empire.

The conquest of Canada and the Peace of Paris, in 1763,<sup>2</sup> made the French-Canadians fellow subjects of the British Crown with these wholly dissimilar New Englanders. A most difficult position was created for the British Government. At first there was some idea in England of endeavouring to anglicize the new subjects, but the differences with the English colonies produced an alteration in this policy. As the troubles with the thirteen colonies became more and more complicated, it was thought advisable by British statesmen to conciliate the French Canadians by all means in their power. In 1774, therefore, the Quebec Act<sup>3</sup> was passed which fully and generously carried out the guarantees of the Treaty of Paris. This Act allowed the new subjects of the Crown to retain the French law of property, but, at the same time, bestowed upon them the English criminal law. Moreover the Roman Catholic Church, with all its possessions, was given full recognition as the dominant Church in the colony. Military rule, which had existed in the province since 1763, was abandoned and an Administrative Council was established consisting of not less than seventeen and not more than twenty three members, all of whom were to be appointed by the governor. Roman Catholics and Protestants were equally eligible for appointment. This council had the power "to make ordinances for the peace, welfare, and good government of the said province with the consent of His Majesty's governor,"<sup>4</sup> but had not the power to levy any taxes whatsoever except for the purpose of making roads or erecting public buildings. No elective assembly was given. Although this Act greatly angered the New Englanders and was denounced by them as anti-Protestant and anti-democratic, it was received by the French Canadians with gratitude and satisfaction. This policy was,

<sup>1</sup> Cf pp 5-6

<sup>2</sup> W. L. M. Kennedy *Documents of the Canadian Constitution (1759-1915)*, pp 14-18

<sup>3</sup> 14 George III cap 83 Cf *Statutes at Large* vol XII pp 184-7

<sup>4</sup> 14 George III cap 83 Cf *Statutes at Large* vol XII p 186

therefore successful in achieving its immediate objective and the loyalty of the French was secured. As a form of government however the Act was never properly tried. Soon after it was passed the revolting colonists invaded Canada and all the energies of the province were engaged in repulsing the attack. It speaks well however for the efficacy of the Act that the colony remained loyal, peaceful and contented during this trying period.

The conclusion of the War of Independence in 1783 created other difficulties in Canada. Many of the enthusiastic adherents of the Mother Country refused to live under a republican form of government which also showed dangerous signs of persecution. They decided therefore to migrate to those northern lands which still remained under the imperial sway. The British Government issued a grant of four million pounds for their assistance and as a result twenty thousand loyalists migrated to Nova Scotia and ten thousand to Western Canada which was then unoccupied. The United Empire Loyalists as these people were called who settled in the region we now call Ontario were naturally drawn under the jurisdiction of the Governor and Council of Quebec. Although fervently loyal to Great Britain these people brought with them all the colonists' love of free institutions and were soon dissatisfied with the slight grant of civil government ceded under the Quebec Act. This was understood by English statesmen who were also desirous of rewarding the loyalty of the French with greater political freedom. Accordingly in 1791 the Constitutional Act<sup>1</sup> was passed the first of the three great legislative measures which finally created the present Dominion of Canada. It was the desire of the British Government to separate the two peoples because owing to the essential differences between the two races it was felt that they would live more peacefully apart.<sup>2</sup> The colony of Quebec was therefore divided into the provinces of Upper and Lower Canada,<sup>3</sup> the former for the British settlers and the latter for the French. The governor at Quebec was nominally to rule over both provinces but in reality his sway was limited to

<sup>1</sup> 31 George III cap 31. *Cf. Statutes at Large* vol xvi pp 121-9.

<sup>2</sup> This was emphasized by William Pitt who declared during the debates upon the Bill that by dividing the province into two parts he conceived that the existing causes of controversy could be removed. —Hansard *Parliamentary Debates* 1791 vol xv pp 1377 1379 and vol xix p 402.

<sup>3</sup> *Cf. Appendix A*

Lower Canada, and the Lieutenant-Governor of Upper Canada was directly responsible to the Imperial Parliament. As far as they could, British statesmen endeavoured to establish in the Canadas "the image and transcript" of the British constitution<sup>1</sup>. The governor was the representative of the king, but his power was greater than that of the English monarch. He was in reality what the king is in theory, the centre and mainspring of the whole administration. An Executive Council was created, consisting of the most notable members of the community, chosen by the governor, to aid him in the administration of the province, and to give advice on all matters of importance. This council closely resembles the English Privy Council, when that body really advised the sovereign, and has no connection with the Cabinet of later days. A second House, corresponding to the House of Lords,<sup>2</sup> called the Legislative Council, was established consisting, in Lower Canada of fifteen, and in Upper Canada, of seven members, all nominated by the governor. The chief and perpetual function of this council was to check and scrutinize all measures passed by the representative body. The Assembly which was elected on a wide franchise, numbered fifty in Lower Canada and sixteen in Upper Canada.

Although the imperial statesmen had given to the constitution of Canada a close resemblance to that of England they had no intention of bestowing its spirit. In neither province was the Assembly allowed to direct the affairs of the colony, but all initiative had to come from the governor<sup>3</sup>. This was because the assembly had no power whatever to force their measures on to the statute book, since they might be refused by the Legislative Council or by the governor or by the Imperial Parliament, any time within two years<sup>4</sup>. Moreover, the power of the purse, that treasured defence of the House of Commons, was not possessed by the Assembly of either province. In both, the revenue was derived from four sources, namely, the customs dues levied at the mouth of the St. Lawrence River,

<sup>1</sup> It seems to me that it was intended to establish in Canada a general resemblance to the British constitution which I think impossible in any colony. —Lord John Russell in the House of Commons on 6 March 1837. Cf. *Harvard* 1837, vol. xxxvi p. 1289.

rents from the casual and territorial revenue, taxation under Acts of the Provincial Legislature, and the remainder which was provided by the Imperial Parliament. All these sources of revenue, except the third, were under the direct control of the governor, while the provincial taxes were limited to licences, militia fines, and petty taxes on property. The Assembly was, therefore, reduced to the position of a mere debating club.<sup>1</sup> But although financially independent, the Executive could not legislate without the concurrence of the Assembly.<sup>2</sup> Thus, in both provinces, although from different reasons,<sup>3</sup> the great problem arose: In what way was it possible to bridge the gulf between the nominated councils and the popularly elected Assembly?<sup>4</sup> The only adequate solution was finally found in the full and complete concession of responsible government.

From 1791, the two colonies, thus formed, pursued different paths which were, finally, to lead them to the same goal. By briefly tracing the political history of these provinces until 1837, it will clearly be seen how and why the cry for responsible government should be raised by two peoples so different in every essential. It is especially curious that the French-Canadians should have demanded this concession so fiercely and so tenaciously as they did, for they were essentially a non-political people. The few seigneurial families which possessed large estates were old fashioned and aristocratic in their ideas and unlikely to lead a democratic movement. There was a very small number dependent upon a weekly wage, while the bulk of the population consisted of hard-working cultivators of the soil.<sup>5</sup> These peasants called the habitants,<sup>6</sup> were simple and industrious folk, living con-

<sup>1</sup> The Lieutenant Governor and the British Ministry hold in their hands the whole patronage of the province: they hold the sole dominion of the country and leave the representative branch of the legislature powerless and dependent.—*Seventh Report on Grievances* 1835. Cf. Charles Lindsey *Life and Times of William Lyon Mackenzie* vol. 1 p. 333.

<sup>2</sup> the system of government in these colonies was the combining of apparently popular institutions with an utter absence of all efficient control of the people over their rulers. Cf. Lord Durham's Report vol. II p. 74.

<sup>3</sup> Cf. p. 46 seq. also pp. 32, 3.

<sup>4</sup> It is difficult to understand how any English statesmen could have imagined that representative and irresponsible government could be successfully combined.—Lord Durham's Report ed. Lucas vol. II p. 79.

<sup>5</sup> Cf. Lord Durham's Report ed. Lucas vol. II p. 31.

<sup>6</sup> In fact the Canadian settler scorned the name of peasant and then as now was always called the habitant. Cf. Francis Parkman *The Old Régime in Canada* p. 253.



tentedly, as their forefathers had done, under the despotic sway of their seigneurs.<sup>1</sup> "They are shrewd and intelligent, very moral, most amiable in their domestic relations, and most graceful in their manners; but they lack all enterprisc; they have no notion of improvement, and no desire for it. Their wants are few and easily satisfied. They have not advanced one step in civilization beyond the old Bretons who first set foot on the banks of the St. Lawrence, and they are quite content to be stationary."<sup>2</sup> An eminently conservative race, they had no desire for a constitution after the English pattern and were well content to continue under the paternal despotism of the Quebec Act. But, when thrust upon them by their henevolent conquerors, they accepted it with the passive obedience they had been taught to show to their rulers. This very desirable state of affairs might have been indefinitely continued hut for one unfortunate consideration. The French-Canadians were extremely jealous of their nationality, and they were determined to preserve, in Canada, all the characteristics of their race. The British acquiescence in this ideal, signified by the Quebec Act, had secured their loyalty in the American War of Independence. The situation was, however, still very dangerous, for upon this one question the whole people were united to a last degree and were acutely sensitive. Any change from the policy of 1774, real or fancied, would result in the complete alienation of the whole French population.

A new factor soon came into play which, to a very large extent, created the conditions of the next forty-six years. During the years following the conquest of Canada, and especially after 1783, many British emigrants settled in Lower Canada, hut more especially in the eastern and hitherto uncultivated parts. There they formed a small, progressive English settlement which was popularly known as the Eastern Townships. The energy and commercial activities of these people aroused the jealousy and suspicion of the slowly moving habitant. These feelings of animosity and rivalry were strengthened among the French community by the policy of some of the British governors. They regarded with uneasy

<sup>1</sup> "The Habitans, or agricultural population of French origin, hold their lands by feudal tenure which prevails in the 'seigneurial' districts. Though under the sway of England for 75 years, they have changed but little in usages and not at all in language." Cf Lord Durham's Report, vol. III, Appendix C, p. 142.

<sup>2</sup> Lord Durham's Report, ed. Lucas, vol. III, Appendix D, p. 267.

eyes the great French predominance in the colony, and deemed it to be their duty to show marked favour and to encourage the English settlers in every way. This policy was pursued to the utmost by Sir James Craig<sup>1</sup> the Governor of Canada from 1807 to 1811 and the unfortunate results of his administration created the atmosphere which made possible the great struggle of the thirties and forties.

Sir James Craig arrived in the colony in October 1807. He was transparently honest and well meaning but having spent much of his life in active service with the armies of England abroad he brought to the civil government rigid military autocracy and discipline. He found the French Canadians a strong united party bound not only by common interests but by the subtle ties of race language and laws. Craig soon became violently anti-French and his feelings of animosity were intensified by his two chief advisers Herman Witsius Ryland<sup>2</sup> and Judge Sewell<sup>3</sup>. The former was convinced that

<sup>1</sup> Sir James Henry Craig was born at Gibraltar in 1748. He entered the British Army in 1763 and served with distinction in the American War in South Africa and India. In 1801 he was promoted to be a lieutenant general. From 1802 to 1805 he was in command of the Eastern District in England and from 1805 to 1806 he commanded an army in the Mediterranean theatre of operations. Ill health compelled his return to England where he was created Governor General of Canada in 1807. He died on 12 January 1812 just after his return from Canada. In 1797 he was created a K.C.B. and just before his death he was promoted to be a general.

<sup>2</sup> Herman Witsius Ryland was born in Northampton, England, in 1760. In 1781 he came to America as Deputy Paymaster General of the British forces and served through the last stages of the war. On the evacuation of New York in 1784 he returned to England with Sir Guy Carleton and when the latter was appointed Governor-General of British North America Ryland came to Canada as his secretary in 1793. He was appointed both civil secretary and clerk of the Executive Council and for many years he had great influence on the government of Canada. He was the confidential adviser of Sir James Craig but was dismissed from his office as civil secretary by Sir George Prevost in 1812. He continued however as clerk of the Executive Council until his death in 1838. He was also appointed a member of the Legislative Council in 1813.

<sup>3</sup> Jonathan Sewell was born at Cambridge, Massachusetts, in 1766 but was educated in England. In 1789 he settled in Quebec and was there called to the Bar. In 1793 he was appointed Solicitor General of Lower Canada and in 1795 Attorney General. From 1796 to 1808 he represented the borough of William Henry in the Legislative Assembly. In 1808 he was appointed Chief Justice of Lower Canada and President of the Executive Council while in 1809 he became Speaker of the Legislative Council also. He resigned the presidency of the Executive Council in 1829 and the office of Chief Justice in 1838 but he continued as Speaker of the Legislative Council until his death at Quebec on 12 November 1839. He was one of the earliest advocates of the federation of the British North American provinces and wrote several political treatises notably *A Plan for the Federal Union of the British Provinces in North America* (London 1814) and *On the Advantages of Opening the River St. Lawrence to the Commerce of the World* (London 1814).

it was necessary to assimilate "the colony in its religion, laws, and manners with the parent state,"<sup>1</sup> while the latter declared that "the province must be converted into an English colony, or it will be ultimately lost to England"<sup>2</sup> The governor and his advisers, therefore, soon endeavoured to undermine the French nationality in every way The political strength of the French-Canadians lay in their complete predominance in the Assembly As a check and counterpoise, therefore, it became the policy of the Government to fill the Legislative and Executive Councils with British members only<sup>3</sup> The Bench was, also, to be composed of English judges only<sup>4</sup> The result of these measures was not to crush out the influence of the French-Canadians, but merely to arouse them from their former political lethargy The policy of the governor met with determined opposition in the Assembly, which was led by Pierre Bedard, a French Canadian of considerable ability and foresight<sup>5</sup> A dissolution made no difference, for, in the ensuing elections, the French came back stronger and more united than ever During the course of this struggle, a most valuable and significant suggestion came from the French party Finding his fellow countrymen opposed and threatened

<sup>1</sup> *Observations Relative to the Political State of Lower Canada*, by Mr Ryland, May 1808 Cf W P M Kennedy, op cit, p 248

<sup>2</sup> *Observations of Chief Justice Sewell on the Union of the Provinces* Cf W P M Kennedy op cit p 268

<sup>3</sup> There is reason to apprehend that the time is fast approaching when the House of Assembly of Lower Canada will become the centre of sedition and a receptacle for the most desperate demagogues in the province To remedy the evil it will require much wisdom joined to a predominating English influence both in the Legislative and Executive Councils — *Observations Relative to the Political State of Lower Canada* by Mr Ryland May 1808 Cf W P M Kennedy, op cit p 248

<sup>4</sup> It is suggested that the two senior Judges at Quebec (who are both of them upwards of seventy three years of age) should be permitted to retire on pensions that in appointing their successors the utmost care should be taken to select men of capacity and firmness Englishmen whose natural ties and habits attach them to the laws and religion of the Parent State — *Observations Relative to the Political State of Lower Canada* by Mr Ryland May 1808

<sup>5</sup> Pierre Stanislas Bedard was born at Charlesbourg near Quebec on 13 November 1762 He was educated at the Quebec Seminary and was called to the Bar of Lower Canada in 1790 In 1792 he was elected to the Legislative Assembly of Lower Canada and sat there continuously until his appointment to the Bench in 1812 He became the leader of the French Canadian Party in the House and was mainly instrumental in founding *Le Canadien* a French-Canadian journal As one of the editors he was imprisoned in 1810 by Sir James Craig but was later released without being brought to trial In 1812 Sir George Prevost made amends for this illegal imprisonment by appointing him judge He sat on the Bench until his death in 1829

by the governor and his English councillors, as a means of escape Pierre Bedard in 1808, put forward a claim for responsible government<sup>1</sup> He explained his meaning tolerably well and saw clearly that not only was it possible but even necessary for the Assembly to have some control over the Executive Sir James Craigs comment and explanation of this claim is most interesting "The Canadian Party hang so completely together and these people have so much influence among them that it is to be expected while their ignorance or their presumption for I know not to which to attribute it is such that I shall not be surprised if they adopt some resolution which may put me under the necessity of dissolving them they either believe or affect to believe that there exists a Ministry here and that in imitation of the Constitution of Britain that Ministry is responsible to them for the conduct of the Government It is not necessary that I should point out to your Lordship the steps to which such an idea may lead them."

This claim put forward by Pierre Bedard is of the greatest importance because it is the first definite suggestion of applying the principle of responsible government to a dependency It is however equally important to notice that this suggestion was rejected by the Assembly The claims of the representative branch of the Legislature were much more modest, and only desired to remove the judges from the House and to obtain some control over officials by paying the expenses of the civil government Although Bedard's proposal was rejected, it created nevertheless a valuable precedent which was not lost on future generations It is interesting to notice the cause of this remarkable declaration The French Canadians found themselves thwarted in the Assembly by the English councillors and saw their nationality threatened by the policy of the governor To meet this double attack Bedard demanded

<sup>1</sup> Le premier devoir de l'Assemblée troisième branche de la législature est de défendre son indépendance même contre les tentatives que ferait le Conseil Exécutif pour la restreindre En adoptant le sentiment de ceux qui disent qu'il n'y a point de ministère en Canada il faudrait ou qu'elle abandonnât son devoir et renouât à se maintenir ou bien qu'elle dirigeât ses accusations contre le représentant même du roi ce qui serait une chose monstrueuse parce que nous devons voir en notre gouverneur la personne sacrée de Sa Majesté et lui appliquer les mêmes maximes —Speech of Pierre Bedard in the Assembly of Lower Canada 1808 Cf F X Garneau *Histoire du Canada* tome II pp 468-9

<sup>2</sup> Dispatch of Sir James Craig to Lord Castlereagh Secretary of State for War and the Colonies 5 August 1808 Cf W P M Kennedy op cit p 250

that the administration of the colony should be carried on in harmony with the views of the majority in the Assembly, which meant, of course, a French control. It is most interesting to notice that, in direct contrast to the Upper Province,<sup>1</sup> the claim of responsible government arose, not from a desire for greater political power, but from a determination to preserve their nationality. The Quebec Act had attached the simple and conservative habitants to the British rule, even during the American revolt, and only the cry of "Notre langue, nos institutions et nos lois"<sup>2</sup> could win them from their staunch allegiance to the Imperial Crown. Once raised, however, the cry for national self-expression was difficult to silence or appease and was, in the end, only laid to rest by the grant of their first demand, responsible government, although frequently, during the intervening years, it was lost amid the conflicting jangle of other popular demands.

The British Government was alarmed by the new spirit of the Assembly, and Lord Castlereagh, the Secretary of State for War and the Colonies, urged Sir James Craig to be more cautious. But Craig was not the man for conciliation. The seizure of an ultra nationalist French newspaper *Le Canadien*, and the arbitrary imprisonment of Bedard and other leaders of the French Party, show the unfortunate character of his government. Such actions aroused still greater enmity and in 1810, the attack upon the Government was continued. In February the House of Assembly passed a resolution stating their unwillingness that the revenues of the Crown should be used to defray provincial expenses.<sup>3</sup> The move was obvious. The representatives were slowly beginning to realize the power of the purse and hoped by it, to control the Executive. The temper of the House made all business impossible and the governor was obliged to dissolve the Assembly once more. He could only offer the Imperial Parliament two suggestions as to the manner of solving the difficulty. "The first and most obvious remedy that presents itself is to deprive them of the constitution as they call it, that is of the representative part of the Government. Next to this great measure, that which is most generally looked

<sup>1</sup> Cf. p. 47 seq.

<sup>2</sup> This was the motto of *Le Canadien*, an ultra nationalist French newspaper edited partly by Pierre Bedard. It had great influence in this early period and was later suppressed by Sir James Craig.

<sup>3</sup> Cf. pp. 27-8.

up to is the Reunion of the two provinces so as to balance the Canadian Party in the House <sup>1</sup> His proposals were not acceptable to the Home Government and he was accordingly withdrawn in 1810

The utter failure of Sir James Craig was far more fatal than ever his success could have been. Had he succeeded in crushing out the French nationality the whole subsequent history of Canada would have been vitally changed. But he found that people and the Roman Church too strong for him and the ideals he strove to annihilate were strengthened by his persecution. It was therefore his administration that laid the seeds of that bitter racial conflict which for so long retarded the peaceful development of the province. Before his departure Craig himself confessed that the French Canadians were viewing us with sentiments of mistrust and jealousy with envy and hatred and that the line of distinction between us is completely drawn. Friendship and cordiality are not to be found—even common intercourse scarcely exists <sup>2</sup> Already the atmosphere of bitter animosity which led directly to the futile rebellion of 1837 and the momentous coming of Lord Durham had been created.

After the departure of Craig his successors followed a conciliatory policy which for a time acted like oil on troubled waters. It bore fruit during the war with the United States<sup>3</sup> (1812-14) during which the republican armies were loyally and valiantly repulsed by French and English alike<sup>4</sup>. This struggle did not have such a great effect upon Lower Canada as it did upon Upper Canada where it proved the turning point in the history of the colony<sup>5</sup>. But it did have one important influence on subsequent events in the Lower Province. Owing to the expense of the war and also in a lesser degree to the increased cost of government the governor was induced to accept the offer of the Assembly to raise new revenue by fresh taxes. The importance of this measure is that being levied by the House these taxes were absolutely controlled by the

<sup>1</sup> From a long dispatch of Sir James Craig to Lord Liverpool on the condition of Lower Canada 1 May 1810. Cf W I M Kennedy op cit pp 256-67.

<sup>2</sup> Dispatch of Sir James Craig to Lord Liverpool 1 May 1810. Cf W I M Kennedy op cit p 256.

<sup>3</sup> Cf S R C Lucas *The Canadian War of 1812*.

<sup>4</sup> One of the leading soldiers on the British side during the war was Colonel de Salaberry. With some hundred French-Canadians and fifty Indians he won the Battle of Châteauguay the most brilliant exploit in the war.

<sup>5</sup> Cf p 45 seq.

Assembly In the words of Lord Glenelg the Colonial Secretary, it was 'the first step which put the colonial assembly in possession of a practical power of exercising the constitutional right which they derived from the Act of 1791' <sup>1</sup>

The reconciliation was, however, of a temporary nature and did not indicate any fundamental change in the general position. Racial animosities were increased rather than diminished. The numbers of the English settlers were steadily increasing and their progressive and successful methods of commerce and agriculture aroused the suspicion and jealousy of the habitants. The parties in the Assembly assumed a national aspect <sup>2</sup>. Moreover, although favoured personally by the governor the French Canadians were rigidly excluded from all share in the government <sup>3</sup>. This treatment was keenly resented by them and they declared 'C'est pour que toutes les places des conseillers fussent données à ce parti [i.e. the English Party] qu'aucun des membres de la majorité de l'Assemblée pas même l'orateur n'a pu être conseiller ce qui est la cause de tout le désordre qui paraît dans l'exercice de notre constitution' <sup>4</sup>. The desire for some share in the administration of the province is not exactly the same as the demand for responsible government. We have seen that the French were not yet ready to take such a momentous step <sup>5</sup>. Nevertheless in the history of the struggle for self government the movement for a French representation in the Executive Council is of the highest importance. It is really an immature expression of

<sup>1</sup> Lord Glenelg in the House of Lords 9 May 1837 Cf Hansard 1837 vol xxxviii p 708

<sup>2</sup> Les divisions de la Chambre d'Assemblée deviennent nationales les Anglais d'un côté formant la minorité à laquelle est lié le gouvernement et les Canadiens de l'autre formant la majorité à laquelle est attachée la masse du peuple — *Mémoire au soutien de la Requête des Habitans du Bas Canada à Son Altesse Royale le Prince Régent Humblement soumis à la considération de Milord Bathurst Ministre d'Etat pour les Colonies* Cf W P M Kennedy op cit p 283

<sup>3</sup> Les membres qui ont été fait Conseillers Exécutifs ont été pris dans la minorité le parti du gouvernement s'est trouvé lié avec la minorité de la Chambre d'Assemblée et la majorité c'est à-dire la Chambre d'Assemblée elle-même à laquelle est attachée la masse du peuple regardée comme un corps étranger à peine reconnu du gouvernement et des autres branches de la législation a été laissée dans l'opposition comme destinée à être menée par la force — *Mémoire au soutien de la Requête des Habitans du Bas Canada à Son Altesse Royale le Prince Régent Humblement soumis à la considération de Milord Bathurst Ministre d'Etat pour les Colonies* Cf W P M Kennedy op cit p 283

<sup>4</sup> Ibid p 284

<sup>5</sup> Cf pp 32-3

the desire for self government Although on the surface it merely urges that both parties in the province ought to be heard before policy was decided it was in reality based on the same fundamental principle that government should be carried on according to the will of the people and not according to the whim of the ruler From maintaining the rights of the French Canadians to be heard in the Council it was but a short step to demand that the administration of the colony should be in harmony with the wishes of the majority in the Assembly which would of course be French How short that step was is seen in a remarkable petition<sup>1</sup> sent to England in 1814 Although nominally only asking for a French element in the Council the document really contains a decided advocacy of responsible government The theory is not of course worked out in the detail in which it appears in Lord Durham's Report<sup>2</sup> or even in the Canadian writings<sup>3</sup> during the thirties but nevertheless it gives the broad outlines of the system finally applied to the colonial constitution by Lord Elgin Governor General of Canada, 1847-54<sup>4</sup> The petition denounces government by minority qui, étant rivaux de la majorité sont peu propres à la bien représenter and urges that the administration should be conducted in accordance with the views of the majority in the Assembly La Chambre de l'Assemblée offre un moyen d'en obtenir d'une manière régulière sans que ce soit sur les recommandations de ceux du parti anglais Si le Gouvernement avait le pouvoir d'appeler au conseil les principaux membres de la majorité de la Chambre d'Assemblée il aurait par là un moyen d'entendre les deux partis et de n'être point obligé de ne connaître l'un que par les informations reçues de l'autre il ne serait plus privé de connaissances et des conseils qu'il pourrait tirer des anciens habitans du pays et nécessité de n'écouter que ceux qui viennent du parti opposé qui n'est pas celui où il y a le plus de connaissance du pays ni le plus d'intérêts conformés à ceux du pays<sup>5</sup> This document

<sup>1</sup> *Mémoire au soutien de la Requête des Habitans du Bas-Canada à Son Altesse Royale le Prince Régent Humblement soumis à la considération de Milord Bathurst Ministre d'Etat pour les Colonies* Cf W P M Kennedy op cit pp 282 7

<sup>2</sup> Cf p 87 seq

<sup>3</sup> Cf pp 41 44 55 57 63

<sup>4</sup> Cf p 159 seq

<sup>5</sup> *Mémoire au soutien de la Requête des Habitans du Bas-Canada à Son Altesse Royale le Prince Régent Humblement soumis à la considération de Milord Bathurst Ministre d'Etat pour les Colonies* Cf W P M Kennedy op cit p 285



may well be compared with the Ninety-two Resolutions<sup>1</sup> which heralded the rebellion of 1837

The storm, which had been slowly gathering, finally broke over the head of Lord Dalhousie,<sup>2</sup> when he came to rule the province in 1820. Its violence was all the greater because the leadership of the French Party was steadily being transferred from the cautious and far-seeing Pierre Bedard to Louis Joseph Papineau.<sup>3</sup> Unstable, violent, and passionate, yet possessing considerable personal charm, Papineau exercised a remarkable influence over his compatriots. He developed to the highest degree his gift of declamatory and persuasive oratory and, until 1837, he overshadowed all other figures in the political life of Lower Canada. From the time of his assumption of the leadership of the French Party, the confusion and violence in the Assembly rapidly increased and the more prudent policy of Bedard was completely lost. Papineau earnestly desired that the French Canadians should have a predominating influence upon the administration of the colony, but his methods of attaining this end were very unfortunate and unwise.<sup>4</sup> Bedard's concise yet all-embracing demand for responsible government was lost amid many futile wrangles with the Mother Country upon details of less importance. Even on the eve of the rebellion, when at last the importance of this principle was realized, the French endeavoured to attain that ideal by urging that an elective Legislative Council should be granted.<sup>5</sup> The demand, that the composition of

<sup>1</sup> W. P. M. Kennedy op cit pp 366-88 and also pp 41-2 of this study

<sup>2</sup> George Ramsay ninth Earl of Dalhousie was born in 1770. In 1788 he joined the 3rd Dragoon Guards and in 1809 he attained the rank of major general and in 1830 that of general. He fought throughout the Revolutionary and Peninsular Wars and was present at the Battle of Waterloo. In 1816 he was appointed Governor of Nova Scotia and in 1820 Governor General of Canada. He held that position till 1828. In 1829 he was appointed Commander-in-Chief in India. In 1830 he was elected Captain General of the Royal Company of Archers the king's bodyguard for Scotland. He died on 21 March 1838.

<sup>3</sup> Louis Joseph Papineau was born in Montreal on 7 October 1786 the son of Joseph Papineau a French notary. He was educated at the Quebec Seminary and was called to the Bar of Lower Canada in 1810. He served as an officer in the Canadian Militia during the war of 1812 and was present at the capture of Detroit. In 1814 he was elected to the Assembly and in 1815 he was chosen Speaker, which office he held almost continuously until the rebellion of 1837-8. In 1820 Lord Dalhousie appointed him to the Executive Council but he found his advice ignored and soon resigned. From that time he carried on an agitation ever increasing in violence against the policy of the Government which finally resulted in the rebellion of 1837.

<sup>4</sup> Cf pp 40-1

<sup>5</sup> Cf p 44

the Executive Council ought to be in harmony with the majority of the Assembly, was not maintained half so vigorously or tenaciously. This, as much as anything, shows Papineau's lack of political insight, because the latter is far superior to the former as a practical means of guiding the destinies of the colony. Indeed the composition of the Legislative Council is of minor importance when the Assembly controls the Executive.<sup>1</sup>

The immediate cause of the great struggle, in which Papineau was finally to lead his followers to rebellion, was a financial one. Lord Dalhousie had been instructed by the Imperial Parliament to obtain from the Assembly, a permanent civil list. The House however, after changing the governor's estimates voted the necessary revenue for one year only, and included in their scrutiny the revenues of the Crown, as if they too were under provincial control. The Legislative Council rejected this Bill and censured the conduct of the Assembly. The House however, refused to make any alterations in the Bill and the Executive was, therefore, left without any taxes being voted. During the next year the governor carefully explained that the permanent revenue was for permanent expenditure only, and that general expenditure would be covered by a yearly vote. The representatives, led by Papineau refused to agree to any compromise whatsoever. They were determined to guide the whole machinery of government by controlling the revenues of the colony. A permanent civil list therefore was firmly refused. The French Party also threatened not to renew certain expiring revenue Acts, from which Upper Canada received a large portion of her revenue. This would have further embarrassed the Executive and would also have seriously disabled the administration of the other province.

The Imperial Parliament was considerably alarmed, and felt that some change should be made. In 1822, therefore to silence the French agitation, it was decided to reunite the two colonies of Upper and Lower Canada. This proposed act of union<sup>2</sup> is a most important factor in the rise of French

Canadian nationalism as it aimed at bringing the Roman Catholic clergy under the control of the Government and also, at abolishing the use of the French language in parliamentary debates. The French were furious at this attempt as they deemed it to submerge their national character. Many petitions were sent to England <sup>1</sup> and finally, Papineau himself went to London to appeal against the Act being passed. The Upper Canadians <sup>2</sup> also had no desire for union and it was only advocated with any real eagerness, by the Eastern Townships <sup>3</sup>. Owing to the great outcry that was raised in Canada, the Bill was finally withdrawn. The chief result of this attempt at union was to cause the French Canadians to rally more firmly than ever, around the nationalist banner of Papineau and to view with ever growing suspicion the policy and pretensions of the Imperial Parliament.

Meanwhile the quarrel between the Executive and the Assembly concerning the permanent civil list raged more fiercely than ever. The Colonial Secretary impressed upon the governor the necessity of refusing all arrangements that went in any degree to compromise the integrity of the revenue known by the name of the permanent revenue <sup>4</sup> while the Assembly denying this principle declared that to the Legislature alone appertains the right of distributing all monies levied in the colonies <sup>5</sup>. In his speech proroguing the Assembly in 1827 Lord Dalhousie clearly summed up the seriousness of the situation. In my administration of the government I have seen seven years pass away without any conclusive adjustment of the public accounts thus accumulating a mass for future investigation which must lead to

<sup>1</sup> Petition of the Legislative Council of Lower Canada against union 1823 Cf W P M Kennedy op cit p 331

<sup>2</sup> Resolution of the House of Assembly of Lower Canada against Union 1823 Ibid p 332

<sup>3</sup> Petition from the French Canadians against Union 1823 Ibid pp 332-4

<sup>4</sup> Petition from Wentworth Upper Canada against the Union Cf W P M Kennedy op cit. pp 336-8

<sup>5</sup> Petition from British of Montreal for Union December 1822 Ibid pp 318-23

<sup>6</sup> Petition in favour of Union of the Provinces from Merchants in the City and District of Quebec 1822 Ibid pp 324-6

<sup>7</sup> Petition from the Eastern Townships for Union 1822 Ibid pp 326-30

<sup>8</sup> Lord Bathurst to Sir Francis Burton the Acting Governor during the absence of Lord Dalhousie in England 4 June 1825 Cf W P M Kennedy op cit pp 339-40

<sup>9</sup> Resolutions of the House of Assembly of Lower Canada 1826 Cf W P M Kennedy op cit pp 340-1

confusion and misunderstanding. In the same years I have seen the measures of government, directly applicable to the wants of the province, thrown aside without any attention and without any reason assigned. I have seen the forms of parliament utterly disregarded, and in this session a positive assumption of executive authority, instead of that of legislative, which last is alone your share in the constitution of the state."<sup>1</sup> The last sentence especially, is a concise statement of the whole difficulty. The French Canadians were determined to go to any lengths in order to get some working control over the administration of the province.

Countless petitions found their way to England, and finally, in 1828 the Imperial Parliament ordered a Select Committee of the House of Commons to inquire into the Canadian troubles. This committee<sup>2</sup> endeavoured to allay the suspicions of the habitants by once more reaffirming, in their report, the policy of allowing the French 'the peaceful enjoyment of their religion, laws and privileges'. A conciliatory spirit was also shown concerning the dispute over the revenue. While acknowledging the Crown's rights over all the revenues of the colony, the report advised that they should be placed at the entire disposal of the Assembly, after an adequate civil list had been provided for the governor, the judges, and the executive councillors. A desire was evinced to place the relations between the legislative assemblies and the Executive Government of Canada on a "right footing" as a means "of remedying all minor grievances" but exactly how that was to be done was not described. The report was not, at that time, officially adopted by the Tory administration, but, on the accession of the Whigs to power it was accepted by them as a general guide upon all colonial matters. In 1831, therefore a law was passed handing over to the Assembly, unconditionally, the revenues reserved for the Crown under the Quebec Act.<sup>3</sup>

The spirit of the House of Assembly, however, remained unchanged. The permanent civil list, which the Imperial Parliament demanded with creditable moderation, was still stubbornly refused. Papineau was steadily leading his

<sup>1</sup> Speech of Lord Dalhousie when proroguing the Assembly in 1827. Cf. W. F. M. Kennedy, op cit. pp 341-2.

<sup>2</sup> Report of the Select Committee on the State of the Civil Government of Canada 1828. Cf. W. F. M. Kennedy, op cit. pp 345-51.

<sup>3</sup> 14 George III cap 83. Cf. *Statutes at Large of the United Kingdom of Great Britain and Ireland* vol xii pp 184-7.

followers to the heights of folly <sup>1</sup> A wiser leader would have gratefully accepted this concession, which gave them almost complete control over the revenue, but the violent and passionate leader of the French flung back at the Mother Country her well meant efforts at conciliation In spite, therefore, of the conciliatory spirit of the Whig Government the situation remained as before, except that now the Assembly had almost entire control of all the revenue raised in the colony

Papineau was not satisfied with an indirect fiscal control over the Executive He desired that the Assembly should fully control the policy of the Government The great obstacle to the fulfilment of this ideal was the composition of the Executive and Legislative Councils The Legislative Council, therefore, became the next object of Papineau's violent attacks <sup>2</sup> In 1831 a petition was sent to England <sup>3</sup> complaining of "the composition of the legislative council" and "the want of responsibility and accountability of public officers" In the same year, a debate also took place in the Assembly upon that subject In January 1833 a motion against the constitution of the Legislative Council was passed by the House of Assembly by 34 votes to 26 and later in the year a petition was sent from the House to England begging the king to make the Council elective <sup>4</sup> At the same time, the Assembly endeavoured to force the governor to accede to their demands by granting supplies only upon certain conditions These conditions were not accepted by the Executive, and the supplies therefore, failed Next year, 1834, no supplies were voted at all and the Assembly prepared a large petition called the Ninety-two Resolutions,<sup>5</sup> which was later sent to London

to control all expenditure in the province should be acknowledged. The irresponsibility of the Executive was violently attacked, and it was declared imperative, for the welfare of the province, that the Legislative Council, which "has served to perpetuate a system of discord and contention" and has "acted with avowed hostility to the sentiments of the people,"<sup>1</sup> should become elective. A resolution was also included to the effect that this House hopes and believes that the Houses of Parliament of the United Kingdom will be disposed to support the accusations brought by this House so that the people of this province may not be forced, by oppression to regret their dependence on the British Empire, and to seek elsewhere a remedy for their afflictions."<sup>2</sup> These Resolutions are of the greatest importance—and they provide a long and detailed list of all the grievances of the French Party. Moreover they caused a split in that, hitherto, solidly united people. The Moderates were alarmed by the attitude of Papineau and his more violent followers, while the Roman Catholic Church was also alienated by the sentiments of revolution and republicanism. The Constitutional Association of Quebec<sup>3</sup> was formed in opposition to the extremists although, at the same time advocating a certain measure of reform. For a time however, the Moderates could do nothing. The wild oratory of Papineau swept the country, and the violent scenes in the Assembly closely resembled those in the Convention of 1792 in France. Again in 1835, the House refused to vote supplies. The Government was almost at a standstill.

The Ninety two Resolutions were sent to England, where they made a considerable impression on British statesmen.<sup>4</sup> The governor-general, Lord Aylmer,<sup>5</sup> was recalled in 1835, and

<sup>1</sup> The Ninety two Resolutions. Cf W P M Kennedy op cit p 369

<sup>2</sup> Ibid p 387

<sup>3</sup> Cf Declaration of the Causes which led to the formation of the Constitutional Association of Quebec and of the objects for which it has been formed. Also cf An Address by the Constitutionals of Montreal to Men of British or Irish Origin 1834. Cf W P M Kennedy op cit pp 388-96

<sup>4</sup> They were described by Lord John Russell as some of grievance some of eulogy some of vituperation some directed against individuals and some against the government at home but all of them amounting to a long and vehement remonstrance and in framing that remonstrance they consumed the whole session and separated without voting a single vote of supply at all. Cf *The Times* 17 January 1838

<sup>5</sup> Lord Aylmer was born in 1775. He entered the army and became a general in 1825. In 1831 he was appointed Governor General of Canada and from the first was engaged in hostilities with Papineau. He was recalled in 1835 and died in 1850. In 1815 he was gazetted K.C.B., and in 1836 G.C.B.

Lord Gosford<sup>1</sup> was sent to take his place and also, as head of a commission<sup>2</sup> to investigate the Canadian problem on the spot. The matter however, had gone too far and was much too complicated to be solved by this weak but good natured Irish peer, who, in addition to his other difficulties,<sup>3</sup> was hindered rather than helped by the almost contradictory instructions<sup>4</sup> given him by the Imperial Parliament. The affair was further complicated by the stubborn attitude of William IV,<sup>5</sup> who personally exhorted Sir Charles Grey one of the royal commissioners, to "take care to assert those undoubted prerogatives which the Crown there possesses and which I am determined to enforce and maintain." "I will never consent to alienate the Crown lands," said the king to Lord Gosford, "nor to make the Council elective." The general aspect of Gosford's administration, therefore showed a determined effort to try to conciliate the French Canadians without offering any solid concessions. The result of this policy was to alienate the British settlers and in no way to placate the French. The efforts of the royal commissioners were met by the Assembly with a demand for fresh concessions. This last

<sup>1</sup> Archibald second Earl of Gosford was born in 1776. He entered political life in 1798 as member for Armagh in the Irish Parliament. After the Union in 1801 he still continued to represent this constituency until he succeeded his father in the peerage in 1807. In 1811 he was elected as a representative peer for Ireland and the House of Lords where he became an exponent of the Whig policy of conciliation with Ireland. In 1832 he was appointed Lord Lieutenant of Armagh and his success in this office was such that he was appointed by the Melbourne Government to be Governor General of Canada and the head of a special commission to inquire into the state of Lower Canada. He remained there until 1837 when he was compelled to admit failure. After his return to England he vigorously opposed the Union Bill of 1840 without success. His later years were devoted to his estates in Ireland. He died in 1849.

<sup>2</sup> The commissioners were Lord Gosford, Sir Charles Grey and Sir George Gipps.

<sup>3</sup> In the Canadian debate of March 1837 Roebuck said: "Sir George Gipps has a leaning towards Liberality. Sir Charles Grey is a high Tory and as for poor Lord Gosford he seems to have led a disagreeable life between the snarling Whig and the arrogant Tory and was evidently distressed to choose between the two knowing nothing of the subject matter of dispute."

—Hansard 1837 vol xxxvi p 1344.

<sup>4</sup> Dispatch from Lord Glenelg the Colonial Secretary to the Earl of Gosford 17 July 1835. Cf W P M Kennedy op cit. pp 399-411.

<sup>5</sup> The policy of William IV in this crisis but with less influence on public affairs was very like that of George III at the beginning of the American Revolution. Both led to rebellion.

<sup>6</sup> Charles C F Greville *Journals of the Reigns of George IV and William IV* vol iii p 272 1 July 1835.

<sup>7</sup> *Edinburgh Review* vol cxxxiii p 319.

petition of 1836<sup>1</sup> represents the final stand of the Papineau Party before the outbreak of the rebellion and shows a very considerable development of the ideas of 1834. The necessity of extending "the elective principle to the Legislative Council"<sup>2</sup> was vigorously maintained while a proposal "to render the Executive Council directly responsible to the representatives of the people conformably to the principles and practice of the British Constitution" was also put forward.<sup>3</sup> Although the attainment of a responsible Executive Council had never been so definitely the primary object of Papineau's policy as of the Reformers of Upper Canada, he was inexorably led to put forward this demand as the only reliable means of obtaining control of the administration of the colony. Indeed, this petition contains one of the most precise definitions of responsible government that we have previous to the rebellion.<sup>4</sup> It reached the root of the whole trouble, below even racial, economic, and other difficulties.

This claim caused great consternation in England, where it was hotly debated in the House of Commons in the beginning of 1837. Lord John Russell refused to consider an elective Legislative Council because "the second Assembly would be but an echo of the first Assembly and would try to enforce all their demands."<sup>5</sup> A responsible Executive Council he held "to be entirely incompatible with the relations between the Mother Country and the colony."<sup>6</sup> The other leading statesmen, both Whig and Tory, declared themselves to be of the same opinion as Lord John Russell. W. E. Gladstone gave the Government his "most unqualified support,"<sup>7</sup> while Lord Stanley<sup>8</sup> declared that the question of a responsible

<sup>1</sup> Extracts from Petitions of the House of Assembly of Lower Canada, 1836 Cf W. P. M. Kennedy, *op cit.*, pp 421-5

<sup>2</sup> *Ibid.*, p 421

<sup>3</sup> *Ibid.*, p 421

<sup>4</sup> "On the subject of the Executive Council we abstain from entering on any details, because we hold this question to be closely connected in practice with the more important subjects of colonial policy. We shall confine ourselves in saying that the full and entire recognition of the rights of this House and of the people, by those whom your Majesty may be pleased to call to your councils, and their constitutional responsibility, based upon the practice of the United Kingdom, will be essential motives for confidence in your Majesty's Government."—Extract from the Petition of the House of Assembly of Lower Canada, 1836 Cf W. P. M. Kennedy, *op cit.*, p 423

<sup>5</sup> Hansard, *op cit.*, 1837, vol xxxvi, p 1294 Cf also pp 1295-6

<sup>6</sup> *Ibid.*

<sup>7</sup> Hansard, *op cit.*, 1837, vol xxxvi, p 105

<sup>8</sup> Cf p 123



Executive was, in reality, "a question of whether or no this colony was to be beld, or was to be given up"<sup>1</sup> Only the Radicals supported the demands of the French-Canadians, Joseph Hume<sup>2</sup> and Daniel O'Connell<sup>3</sup> being especially prominent

Violently abused by Papineau and doomed to ultimate failure, Lord Gosford continued his investigations. In their final report to Parliament, the royal commissioners advocated that the Imperial Act of 1831<sup>4</sup> should be repealed, and that no responsibility of the Executive Council to the Assembly should be recognized. The representatives, however, were in no way abashed. They continued to reiterate their demands "for a good and responsible system of local government" and passed resolutions embodying them<sup>5</sup>. The British Government was thoroughly perplexed. The leading statesmen in England were convinced of the necessity of never giving way to the claims of the Papineau Party, "which we consider would amount to the abandonment of the colony altogether"<sup>6</sup>. On the other hand, it seemed impossible to satisfy the Assembly in any other way. The most well-meaning attempts at conciliation, notably in 1831,<sup>7</sup> had been received with contempt, and the report of the Gosford Commission showed utter failure to deal, adequately, with the situation. For four years the Executive had been obliged to manage without any supplies, whatsoever, being voted by the Assembly. It was in this spirit of bewilderment and exasperation that Lord John Russell, in 1837, carried the Ten Resolutions<sup>8</sup> through the Imperial Parliament. The demands of Papineau and his followers were definitely refused, and the Executive was given the power to appropriate the supplies necessary for the maintenance of the Government, whether the Assembly agreed or not.

These resolutions supplied just the necessary impetus to awaken into furious life the violent passions which slumbered in all parts of the province. The Assembly, which offered a

<sup>1</sup> Hansard op cit. 1837 vol xxxvii p 118

<sup>2</sup> Hansard op cit 1837, vol xxxvii pp 76-95

<sup>3</sup> O'Connell very effectively, compared the grievances of Ireland with those of Canada. Cf Hansard op cit. 1837 vol xxxvi pp 1323-54

<sup>4</sup> Cf p 40

<sup>5</sup> Resolutions of the House of Assembly of Lower Canada, 1836 Cf W P M Kennedy op cit. pp 425-7

<sup>6</sup> Lord John Russell in the House of Commons Cf Hansard, 1837 vol xxxvi p 1304

<sup>7</sup> Cf pp 40-1

<sup>8</sup> Appendix B

slightly more respectable version of the wild and disorderly scenes which were witnessed in all parts rose in uproar. Supplies were of course, withheld and an angry reply<sup>1</sup> was sent to the Imperial Parhament. 'It is our duty to tell the Mother Country that if she carried the spirit of these resolutions into effect in the government of British America and of this province in particular, her supremacy, therein, will no longer depend upon the feelings of affection of duty, and of mutual interest which should best secure it, but on physical and material force'.<sup>2</sup> It was obvious that nothing could be done to alter the temper of the Assembly so the House was prorogued on 6 August and as events turned out it never met again.

During the autumn of 1837, violent meetings were held in all parts of the province and everywhere the greatest confusion reigned. The signal for open insurrection was the dismissal, by Lord Gosford, of certain officers of the militia. The rank and file immediately began to elect their own officers and this open insubordination was followed by acts of violence. Thus began the rebellion in Lower Canada. At first it was feared that the rising would be a formidable one but the situation was saved by the loyalty of the Moderates and by the action of the Roman Catholic Church which strongly supported the Government and the cause of peace.<sup>3</sup> The rebellion was easily suppressed, but the evils which had caused the outbreak still remained. The position was all the more dangerous because a similar insurrection had taken place in Upper Canada, under the leadership of William Lyon Mackenzie.

The movement in Upper Canada had followed a course almost identical to that of the sister province, with one main exception

<sup>1</sup> Address of the Assembly of Lower Canada August 1837 Cf W. P. M. Kennedy pp 438-41

<sup>2</sup> Ibid p 439

<sup>3</sup> In July 1837 Mgr Lartigue the Bishop of Montreal urged his clergy to keep the people within the path of duty. This warning was followed in October by a pastoral letter urging them to mistrust the men who were leading them to rebellion. The report of the Commissioner of Inquiry into the state of Education in Lower Canada pays a strong tribute to the loyalty of the Roman Catholic Church. It is impossible to pay too high a tribute to the merits of this most exemplary church. Its existence has ever been beneficially felt and its career has been marked throughout by the most faithful discharge of its sacred duties and the most undeviating allegiance to the British Crown. Cf Lord Durham's Report vol iii Appendix D p 241. And also the Catholic Church whose ministers have been the only men of station among the French-Canadians who never forfeited their fidelity to the Mother Country. Ibid p 277

—that is, in the origin of the movement. The habitants had had no desire, in the first place, for greater political power, and would, indeed, have been content with less. It was their fear, suspicion, and dislike of the new and progressive British settlers that, finally, caused them to demand a controlling influence over the affairs of the province in order to save their nationality from extinction. The situation in Upper Canada was very different. There was no special problem, and all were well acquainted with the British political system. In that province the rebellion was the result of the clash of two rival parties for the control of the colony. The history of these years presents an interesting parallel to the struggle for responsible government which took place in England in the seventeenth century and which found its logical conclusion in the Reform Bill of 1832.

The province was settled in the first place by the United Empire Loyalists, who had, owing to their devotion to Great Britain, fled from the United States, after 1783. Forming practically the whole population of the colony, they were able to govern it strictly in accordance with their Tory ideals. Their leaders, forming a narrow clique, called, by contemporaries, the Family Compact,<sup>1</sup> wielded the whole power of the province. "For a long time this body of men, receiving at times accessions to its numbers, possessed almost all the highest public offices, by means of which, and of its influence in the Executive Council, it wielded all the powers of government; it maintained influence in the legislature by means of its predominance in the Legislative Council; and it disposed of the large number of petty posts which are in the patronage of the Government all over the province. . . . The bench, the magistracy, the high offices of the Episcopal Church, and a great part of the legal profession are filled by the adherents of this party; by grant or purchase they have acquired nearly the whole of the waste lands of the province; they are all-powerful in the chartered banks, and till lately shared among themselves almost all offices of trust and profit."<sup>2</sup> Although the members of this party were nominally dependent upon the will of the governor, being nominated to their official positions

<sup>1</sup> "A name not much more appropriate than party designations usually are, inasmuch as there is, in truth, very little of family connection among the persons thus united." Cf. Lord Durham's Report, vol. II, p. 148.

<sup>2</sup> Lord Durham's Report, vol. II, p. 148.

by him, they were able to mould his policy to a very large extent because he was practically obliged to draw his advisers from their circle <sup>1</sup>

A monopoly of power, so extensive and so lasting, could not fail to provoke envy and dissatisfaction. The war of 1812 both strengthened and weakened their influence. The struggle intensified their loyalty and attachment to the Mother Country, but in policy, they became more anti-democratic than ever, and more hostile to the republic on their southern borders. Their power and influence in Downing Street was increased because it was based on present as well as past loyalty. Moreover, by their vigorous defence of the province, they had justified their right to be considered an addition to the stability of the Empire. At the same time, however, the conclusion of the war proved to be the beginning of a strong opposition to this governing Tory class. Great Britain feeling a new interest in the welfare of her Canadian colonies, began to perceive the advantages of emigration to the fertile lands of North America. After the Napoleonic Wars there was considerable distress in the Motherland so that the poor, especially of Scotland and Ireland began to turn their gaze with hope upon the new lands. The war had a similar effect upon the United States where the soldiers, returning home, related stories of the great fertility of the northern country. Therefore, in spite of the British connection attracted by the cheap lots, the citizens of the republic migrated in large numbers during the succeeding years to the alarm not only of the provincial government <sup>2</sup> but also of the Imperial Parliament <sup>3</sup>. The new settlers, both from Britain and from the United States, generally had radical or republican tendencies so that they began to form a natural opposition to the Family Compact. This opposition was crystallized and intensified by the intolerant attitude of that exclusive clique. It was quite excusable that the United

<sup>1</sup> Successive Governors as they came in their turn are said to have either submitted quietly to its influence or after a short and unavailing struggle to have yielded to this well-organized party the real conduct of affairs. Cf. Lord Durham's Report vol. II p. 148.

<sup>2</sup> Minutes of the Executive Council of Upper Canada to the Governor Sir Peregrine Maitland. The Council see no reason to make any distinction between persons coming from the United States and other foreigners nor can they refrain from expressing their doubt of the expedience of encouraging emigration in future into this colony except from British Dominions. — Douglas Brymner *Report on the Canadian Archives* 1898 Note C pp. 42-4.

<sup>3</sup> Cf. pp. 9-10.

Empire Loyalists, who had twice suffered loss of homes for the sake of the Empire, should be unwilling to allow the republicans from the south any important share in governing the small community. But harder to justify was the fact that, obsessed with a love of power, they also endeavoured to exclude the British settlers, because, whatever might have been their religious or political views, they were all, for the most part, very loyal to the imperial connection. It was from these new settlers, therefore, that a Radical or Reform Party grew up in opposition to the policy of the Family Compact. The struggle that ensued between the two finally led to rebellion.

The issue of the contest in Upper Canada was complicated and embittered by religious dissensions. In order to counter-balance the establishment of the Roman Catholic Church in the lower province,<sup>1</sup> and also to foster feelings of loyalty towards the Mother Country,<sup>2</sup> the statesmen of the eighteenth century deemed it necessary to establish the Church of England in a predominant position in the colony. The means of establishment was not by religious intolerance, but by so well providing the Church with lands that it might be the wealthiest and most powerful denomination in Upper Canada. The proportion was fixed as "equal to the seventh part of the lands so granted,"<sup>3</sup> and at the same time the lieutenant-governor and the Executive were empowered to erect parsonages and rectories "according to the establishment of the Church in England"<sup>4</sup>. For a time these privileges were unquestioned because practically all the United Empire Loyalists were enthusiastically devoted to that Church. As the colony grew in wealth and population, however, the inconveniences of the reserves became more and more apparent. Dotted in small lots all over the country, they became islands of waste and wildness amid the tillage and industry of the surrounding districts, an effective impediment to close settlement and the

<sup>1</sup> Aileen Dunham: *Political Unrest in Upper Canada* (1815-36), p. 80

<sup>2</sup> In 1838 the Archbishop of Canterbury declared in the House of Lords: "In Canada, the establishment and support of that Church was calculated to produce piety, loyalty, order, obedience to the laws, and that attachment to the Mother Country which every lover of his country would wish to see in all the colonial possessions of England"—Hansard, 1838, vol. xli, p. 714

<sup>3</sup> The Constitutional Act of 1791. Cf. *Statutes at Large*, vol. xvi, p. 127.

<sup>4</sup> The Constitutional Act of 1791. Cf. *Statutes at Large*, vol. xvi, p. 127

making of good roads.<sup>1</sup> Moreover, nearly all the new settlers who came flocking into the country after the conclusion of the war with the United States belonged either to the Church of Scotland or to the Dissenting Churches. They, therefore, opposed on religious grounds the maintenance of the privileges of an Established Church and desired that the clergy reserves should be divided amongst all the denominations according to the numbers of their congregations. They based their claims on the ambiguous wording of the Constitutional Act, which only mentions 'a protestant clergy'.<sup>2</sup> The two most important bodies in opposition to the Church of England were the Methodists,<sup>3</sup> who were easily the largest sect in the colony, and the Church of Scotland,<sup>4</sup> which logically based its claims on the fact that Canada was acquired after 1707, when Great Britain had two established religions. The Church of England was by no means willing to consider the claims of the other Churches and led by the vigorous and indomitable Scotsman John Strachan<sup>5</sup> valiantly contested every inch of the ground.

<sup>1</sup> In evidence given before a House of Commons Committee of 1836 on the Disposal of Lands in British Colonies (p. 8) one of the witnesses Mr Whitmore spoke of the clergy reserves in Canada remaining desert in the midst of spreading cultivation and thereby retarding the general improvement of the country. Cf. Lord Durham's Report vol. ii p. 204.

<sup>2</sup> such allotment and appropriation of lands for the support and maintenance of a protestant clergy within the same.—Constitutional Act 1791. Cf. *Statutes at Large* vol. xvi p. 126.

<sup>3</sup> Their claims were fully expressed in a Petition from Methodist Churches to England 8 September 1831. Cf. Douglas Brymner op cit 1899 note a pp. 32-8.

<sup>4</sup> A Petition from Church of Scotland to Lord Bathurst. Cf. Douglas Brymner op cit 1899 note a pp. 25-7.

<sup>5</sup> John Strachan was born at Aberdeen in Scotland in 1778. He was educated at the universities of Aberdeen and St Andrews and in 1799 he came to Canada. For twelve years he taught in a school first at Kingston and then at Cornwall where he became quite famous. In 1803 he took Orders in the Church of England and was appointed Rector of Cornwall. In 1812 he became Rector of York (Toronto) and played a conspicuous part during the war. In 1818 he was appointed a member of the Executive Council and in 1820 of the Legislative Council. From that time he became Sir Peregrine Maitland's chief adviser on both political and religious matters and also one of the leading members of the Family Compact. He especially distinguished himself by his advocacy of the exclusive right of the Church of England to the clergy reserves. In 1836 however he resigned from the Executive Council and in 1841 he ceased to sit in the Legislative Council. In 1825 he became Archdeacon of York and in 1839 Bishop of Toronto. Henceforth he took little part in politics and devoted himself to religious and educational work. He became in 1827 the first President of King's College Toronto but when that was reorganized in 1850 as the University of Toronto he withdrew from all connection with it and founded in 1851 the University of Trinity College Toronto of which he was first Chancellor. He died in 1867.

As the years progressed, the position of the Anglican Church grew steadily worse. The numbers of the Dissenters grew rapidly and, in 1840, Joseph Hume stated that "the members of the Church of England, at this moment, are not one-tenth of the population" <sup>1</sup>. That such a small minority should be supported by one-seventh of the lands of the whole province was grossly unfair, but, nevertheless, their claims were strenuously supported by the Family Compact, whose members and supporters, practically without exception, belonged to that Church <sup>2</sup>. Indeed, the leader of the Established Church, Dr Strachan, was one of the leading members of the Family Compact <sup>3</sup>. The Radical Party, therefore, actuated by both political and religious reasons (since the members of that party were very largely Nonconformists), fiercely opposed the claims of the Church of England and its supporters <sup>4</sup>. Gradually, as the question of the division of the reserves grew more and more complicated, the extreme reformers advocated that the revenue from the sale of these lands should be "appropriated in a judicious manner to public improvements and the support of education, upon such principles as will not countenance any distinction on account of religious profession or belief" <sup>5</sup>. Although such ideas were as repugnant to the Dissenting Churchmen as to the Anglicans, yet the strong and uncompromising position of the latter forced the former into a rather uneasy alliance with the extremists, until 1834. The importance of the struggle for the clergy reserves, in the history of Upper

Canada, cannot be over-estimated. More than any other single cause, it created hatred of, and opposition to, the policy of the Family Compact, and inspired the rapid growth of the Radical Party. The religious dissensions in the province were described by Lord Durham as "the chief predisposing cause of the insurrection" and the "abiding and unabating cause of discontent" <sup>1</sup>

The years from 1814 to 1828 saw the rise of the Radical Party in Upper Canada. It was facilitated by the repressive and arbitrary policy of the Family Compact,<sup>2</sup> which was a true reflection of the rigid Tory policy of the Government in England, immediately after the Napoleonic Wars. Strange as it may seem, the Tories in England did not always support their fellow-thinkers in the 'New World, but endeavoured to act with impartiality, while, from the Radicals, the Reformers of Canada received an enthusiastic and never-varying support. The idea, therefore, arose that the Mother Country was just and generous, that she would willingly redress all their grievances if they were but properly explained to her. Reformers in Upper Canada felt that they were not fighting the whole forces of the Empire, but merely the corrupt, local obgarchy.<sup>3</sup> This conviction led to very important results. In the first place it prevented, for many years, the imperial connection being dragged into local politics. Secondly, in an indirect manner, it retarded the growth of new political claims. The Radicals soon discovered that a majority in the House of Assembly availed them nothing, when opposed by all the forces of the Family Compact. All their measures were mutilated by their opponents, who reigned supreme in the Legislative and Executive Councils and, also, in the governor's residence <sup>4</sup>. In such a case, it would have been natural, as in Lower Canada, for the Radicals to try to obtain some control over the irresponsible Executive, but for many years this was not done. General attacks were, of course, made upon the sources from which the Family Compact derived their power,

<sup>1</sup> Lord Durham's Report vol II, p 176

<sup>2</sup> Supreme examples of the extreme and vigorous policy of the Family Compact are to be found in its treatment of Robert Gourlay Barnabas Bidwell, Judge Willis Captain Matthews, and William Forsythe

<sup>3</sup> This idea first gained ground during the struggle over the Aliens Bill, which lasted from 1821 to 1827. It so happened that the Imperial Parliament supported all the wishes of the Radicals who carried their own Bill and forced the Tories to give way on all points

<sup>4</sup> Cf pp 47 8



and "the Executive Government, the Legislative Council, the Bench, the Bar, and the Church all came in for a share of attention,"<sup>1</sup> but no definite claim for the control of the province was put forward. The Reformers were content to leave the control of the Executive Government to their opponents, and endeavoured to carry their measures to success by an appeal, over the heads of the governor and his Tory supporters, to the Imperial Parliament. This policy was rewarded, for a long time, with remarkable success. In addition to their great victory over the Aliens Bill in 1827,<sup>2</sup> the Radicals also secured noteworthy triumphs in the cases of Mr Justice Willis<sup>3</sup>, Captain Matthews<sup>4</sup> and William Forsythe<sup>5</sup>.

Another reason for the slow development of Radical claims in Upper Canada was their lack of a proper programme and organized leadership. Both however, were supplied in 1828 with the election of William Lyon Mackenzie<sup>6</sup> to the Assembly as one of the Radical members for York. This peppery little Scotsman, destined eventually, to lead his followers to ruin in a futile rebellion, was imbued with a sincere desire to abolish the abuses which he saw in the government of the colony and to check the power of the Family Compact, to which he was

violently opposed<sup>1</sup> Already he was well known in the colony for his scathing criticisms of the Government in his newspaper the *Colonial Advocate*<sup>2</sup> and once in the Assembly he quickly rose to prominence owing to his tireless energy his honesty his passionate eloquence and his persistent motions for information With the elevation of Mackenzie to the leadership of the Radical Party a change was wrought in the political composition of that party Their claims became more definite and more extreme With a progressive programme and an acknowledged leader they felt their own power and soon became dissatisfied with the indirect means they had hitherto adopted to check the Executive Mackenzie soon brought forward numerous resolutions which were designed to check the power of the Family Compact but he found himself helpless in face of their opposition This led him to evolve the claim for responsible government which alone he realized would ensure popular control over the irresponsible Executive A study of the next five or six years will show how these changes were wrought in the policy and aims of the Radical Party

The rise of Mackenzie did not result in an immediate break with the traditional policy of his party Indeed until completely disillusioned the Reform leader urged as strongly as any one appeal to England In 1831 he declared in a public address If you can agree upon the general principles to be

<sup>1</sup> Mackenzie's reasons for entering upon the stormy sea of politics are explained in a letter to a friend in the United States I had long seen the country in the hands of a few shrewd crafty covetous men under whose management one of the most lovely and desirable sections of America remained a comparative desert The most obvious public improvements were stayed dissension was created among classes citizens were banished and imprisoned in defiance of all law the people have been long forbidden under severe pains and penalties from meeting anywhere to petition for justice large estates were wrested from the owners in utter contempt of even the forms of the courts the Church of England the adherents of which were few monopolized as much of the lands of the colony as all the religious houses and dignitaries of the Roman Catholic Church had had the control of in Scotland at the era of the Reformation the other sects were treated with contempt and scarcely tolerated a sordid band of land jobbers grasped the soil as their patrimony and with a few leading officials who divided the public revenue among themselves formed the Family Compact and were the avowed enemies of common schools of civil and religious liberty of all legislative or other checks to their own will Cf C Lindsey op cit vol i pp 40-1

<sup>2</sup> So formidable was the criticism of this paper that on 8 June 1826 a number of Tory young men closely related to the leaders of the Family Compact destroyed the types and press Mackenzie received £625 compensation for this outrage and that provided the seeds of war for a fresh and more vigorous campaign besides enlisting on his behalf the sympathy of the colony

maintained by the agents you may appoint in London, I am well satisfied that His Majesty's Government will exert its utmost powers to fulfil your just and reasonable requests your King's noble efforts on behalf of your brethren in England, Ireland, and Scotland are an earnest that you have in him a firm and powerful friend " <sup>1</sup> It was during the session of 1829, in a series of thirty-one resolutions, that Mackenzie outlined the basis of his policy. Attacking the Tory Party, he denounced pensions, an Established Church, monopolies, criminal persecutions at the instance of the Crown, and he also asserted the necessity of making the judges independent, and of having an accredited agent at London. More important, however, was the fact that, in contending for the right of self-government, of which the constitution contained the guarantee, he maintained the right of the Assembly to control the entire revenue of the province. These claims were in advance of popular aspirations and, although the Radicals had a majority in the House, they were not pressed with vigour. Mackenzie had little time to convince his associates because, owing to the death of George IV, a dissolution necessarily took place. The elections which ensued are of the greatest importance because, in his speeches Mackenzie added to his former programme the need for 'an executive government responsible for its conduct " <sup>2</sup> This was the first expression of any striving after a definite control over the Government. Mackenzie did not explain exactly what he meant, nor does this demand seem to have greatly impressed the supporters of his party, as the Reformers were defeated at the polls. The reason for this defeat is hard to comprehend because the Moderates were, as yet, still united to the main body of the Radical Party, <sup>3</sup> and the case of Francis Collins <sup>4</sup> had created much popular opposition to the official class. The key to the problem perhaps, lay in the fact that the average colonist eager for economic improvements, realized that a Radical Assembly, being firmly opposed by a Tory Executive, found it almost impossible to

pass any measures whatsoever, whether of a party nature or not <sup>1</sup> However that may be, the House that met on 7 January, 1831, was the most fiercely Tory and anti-Reform that had yet tried to govern the province

The Tory Party was led by that talented and dignified statesman John Beverley Robinson,<sup>2</sup> and by the clever and arbitrary Dr Strachan <sup>3</sup> Neither of them, however, sat in the Assembly where the party was led by Henry John Boulton <sup>4</sup> and Christopher Hagerman,<sup>5</sup> both of whom unfortunately, were violent tactless and entirely lacking in the finer arts of parliamentary management Thus, with Boulton on one side and Mackenzie on the other, the passing of constructive legislation and the peaceful working of the party system became almost an impossibility The Tories however, began their administration with considerable wisdom Owing largely to the outcry in Lower Canada, in 1831,<sup>6</sup> the Imperial Parliament ceded to the Provincial Legislature the control of revenues amounting to about £11,500 In direct contrast to the

<sup>1</sup> During the previous session when a Radical majority ruled in the Assembly twenty seven bills passed by that House were rejected by the Legislative Council and many Bills returned to the Assembly received no further consideration owing to the amendments which had been made by the Council Cf W Kingsford op cit vol x p 296

<sup>2</sup> John Beverley Robinson a brilliant lawyer became Attorney General in 1818 and was elected in 1821 to the Legislative Assembly of Upper Canada for York He continued to sit in the House and act as Attorney General in which capacity he ably led the Tory Party until in 1830 he was appointed Chief Justice of Upper Canada Speaker of the Legislative Council and President of the Executive Council The last he resigned in 1832 and he ceased to sit in the Legislative Council in 1841 but he held the office of Chief Justice until 1862 when he was appointed first President of the Court of Error and Appeal He died shortly afterwards on 30 January 1863

<sup>3</sup> Cf p 50

<sup>4</sup> Henry John Boulton Attorney General of Upper Canada (1829-33) was born in England in 1790 He came with his parents to Canada in 1797 but was educated in England He began a practice of law in Canada and in 1818 was appointed Solicitor-General and in 1829 Attorney General From this position he was dismissed by the Colonial Secretary in 1833 (cf p 60) He was later appointed Chief Justice of Newfoundland but was dismissed for political reasons in 1838 He then returned to Upper Canada and sat in the Assembly from 1841-4 and 1848-51 He died in 1870

<sup>5</sup> Christopher Hagerman the son of a United Empire Loyalist was born in 1772 and was called to the Bar of Upper Canada in 1815 During the war of 1812 he was aide-de-camp to the Governor General and in 1815 he was appointed a member of the Executive Council From 1819-40 he was a member of the Assembly and in 1829 he was appointed Solicitor-General in 1837 he was appointed Attorney-General and in 1840 he became a Judge of the Court of the Queen's Bench He died at Toronto in 1847 He was regarded as one of the pillars of the Family Compact

<sup>6</sup> Cf p 40

French Canadians,<sup>1</sup> the Tories received this large accession to the power of the Assembly in a proper and statesmanlike manner, and immediately voted a permanent civil list of £6500.<sup>2</sup> This further control of expenditure was a direct step, though unrecognized at the time, towards responsible government. The Radicals, however, showed their lack of political insight by denouncing this most sensible arrangement as 'the everlasting salary bill'.<sup>3</sup>

Although the Tories completely controlled every branch of the Legislature, Mackenzie did not in the least relax his efforts. He held meetings in various parts of the country, and, in stirring speeches, within the House and without, he fully developed the policy he had previously foreshadowed. The programme he put forward aimed at remedying abuses in every sphere of colonial life,<sup>4</sup> but far more important was the fact that he showed a firm determination to apply the principles of responsible government to the administration of the colony. The king was asked 'to cause the same constitutional principle, which has called your present ministers to office, to be fully recognized and uniformly acted upon in Upper Canada, so that we may see only those who possess the confidence of the people composing the Executive Council of your Majesty's representative'.<sup>5</sup> It was truly remarkable that this claim should be put forward at that time and in such a manner. The more political Anglo-Saxon mind had rapidly grasped the essentials and unlike the more visionary and theoretical ideas of the French Canadians, there was no suggestion of tampering with the composition of the Legislative Council. The project

<sup>1</sup> Cf p 41

Lieutenant Governor	£2 000
Judges of Court of King's Bench	3 300
Attorney-General and Solicitor General	500
Five Executive Councillors	each 100
Clerk of the Executive Council	200

<sup>2</sup> This designation frequently appeared in the *Colonial Advocate* notably on 5 January 1832

<sup>3</sup> Besides responsible government the other points were (i) Representative reform (ii) control of all the revenue raised in the province by the Legislative Assembly (iii) disposal of public lands to be regulated by law (iv) secularization of clergy reserves (v) establishment of municipal councils which should have control of local assessments (vi) abolition of peculiar privileges for one religious denomination (vii) law reform (viii) provision for impeaching public servants who betray their trust (ix) exclusion of judges and ministers of the gospel from the Executive Council and Legislature (x) abolition of right of primogeniture Cf C Lindsey op cit vol i p 203

<sup>4</sup> Cf C Lindsey op cit, vol i p 203

of making the Government responsible to the people by introducing the elective principle into the Upper House was only put forward after Mackenzie had come personally under the influence of Papineau<sup>1</sup>. Even then, it was not advocated by the Upper Canadians with the same vigour as by the French Party but was always mentioned as a secondary consideration in conjunction with the more important demand for the reorganization of the Executive Council. From this time, the demand for responsible government is ever put forward in Upper Canada with increasing vehemence, and becomes the chief demand of the Reform Party as the only means of ousting the Family Compact from power.

The influence of Mackenzie grew more and more powerful. The Tories became alarmed and decided that this troublesome upstart must be silenced. A way was soon found. On a charge of libelling the House of Assembly on two occasions<sup>2</sup> Mackenzie was expelled from the House by a vote of twenty-four to fifteen. Undaunted however, he again put himself forward for election and he was returned, with a large majority, to the Assembly whence he was once more expelled. This tyrannical conduct had naturally the reverse effect from that which the Tories had hoped and Mackenzie became a national hero. Although he was so popular it was impossible for him, until the next election to do any good in the province. Following the traditional policy of his party therefore, he decided to go to England and to present to the Colonial Secretary, in person a petition containing the reforms he deemed necessary.

The moment was propitious. The Whig ministry, from which he hoped to obtain considerable concessions was still in power<sup>3</sup>. On his arrival in England he was well received by the Radicals and owing to the good offices of Joseph Hume he

<sup>1</sup> Cf. p. 61.

<sup>2</sup> The two articles in question appeared in the *Colonial Advocate* published on 21 November and 1 December 1831. The most violent sentence was probably the following: "Our representative system has degenerated into a sycophantic office for registering the decrees of as mean and mercenary an executive as ever was given as a punishment for the sins of any part of North America in the nineteenth century." Cf. C. Lindsey op. cit. vol. i pp. 211-14.

<sup>3</sup> Mackenzie wrote very highly of Earl Grey and had great expectations of him. Well does Earl Grey merit the high station and distinguished rank to which he has been called: truth and sincerity are stamped on his open, manly English countenance; intelligence and uprightness inscribed on all his actions. His lordship had need of neither the peerage nor the post he fills to point him out as one of the first among men. Cf. Charles Lindsey, op. cit. vol. i pp. 236-7.

obtained an interview with Lord Goderich, the Colonial Secretary.<sup>1</sup> Mackenzie presented to him a petition, signed by 12,075 persons, containing the demands of the Radical Party.<sup>2</sup> About the same time, counter-petitions, signed by 26,854 people, "who concur in expressing their cordial satisfaction in those laws and institutions which the other sort of petitions have impugned,"<sup>3</sup> reached Downing Street. This is but one example of the capability and energy of the Family Compact. The Colonial Secretary seemed favourably impressed with the Reform leader, but he had no intention, whatever, of granting responsible government. He was willing, however, to give way on several small points, namely, that a full statement of expenditure should be placed before the Assembly: ecclesiastics holding seats in the Legislative Council should abstain from interference in secular matters; election costs should be reduced as far as possible; a reform should be effected in the Post Office, and the Colonial Secretary seemed favourable to an independent judiciary. Goderich sent a dispatch to Upper Canada embodying these views, but it was received with gross disrespect,<sup>4</sup> so great was the mortification of the Tories that Mackenzie should be able to exercise any influence over the Colonial Secretary. Instead of placing the dispatch upon the journals, the Legislative Council returned it to the governor, while the Assembly, by a vote of twenty-one to twelve, resolved upon a similar course.

The alliance between the Radicals in England and Canada was once more emphasized in the Imperial Parliament. Joseph Hume exposed to the Commons the injustice of the repeated expulsions of Mackenzie<sup>5</sup> from the Assembly, and the Colonial Secretary immediately ordered that this procedure should cease.<sup>6</sup> Boulton and Hagerman refused to comply with this

<sup>1</sup> "The conduct of the Colonial Minister" he found to be "friendly and conciliatory: his language free from asperity, and I left him with the impression strongly imprinted on my mind that he sincerely desired our happiness as a colony and that it was his wish to act an impartial part." Cf. C. Lindsey, op. cit., vol. i, p. 262.

<sup>2</sup> Cf. p. 57.

<sup>3</sup> C. Lindsey, op. cit., vol. i, p. 265.

<sup>4</sup> The *Courier*, a Tory newspaper, described the dispatch as "an excellent piece of fiddle-faddle . . . full of clever stupidity and condescending impertinence." Cf. Charles Lindsey op. cit., vol. i, p. 271.

<sup>5</sup> While absent in England, Mackenzie was again re-elected, on 2 November, 1832, as one of the members for York. For the third time, he was declared incapable of holding a seat in the House.

<sup>6</sup> The *Wulke Case*, in the middle of the eighteenth century, left no other course open to the Colonial Secretary.

Imperial decree Unable to allow with dignity such an insolent disregard of the wishes of the Colonial Office, and already angered by the disrespectful reception of his previous dispatch, Lord Goderich summarily dismissed the two Tory leaders from their positions of Attorney General and Solicitor-General respectively This event came as a great shock to the Family Compact, and it was described in the party press as "high handed and arbitrary" The Radical Party, and especially Mackenzie, were correspondingly elated at this indication of imperial support and were full of hope for the future Moreover, they had, at last, pricked the Tories' 'loyalty bubble' and had proved that the Family Compact could be as insubordinate as the most extreme reformers unless they, alone, had the ear of the Colonial Secretary

At this critical moment there was a change in the Colonial Office The liberal minded Goderich was dismissed, and the brilliant but arbitrary Stanley<sup>1</sup> took his place The uncertainty of the imperial policy had ever been deplored,<sup>2</sup> but never did it have more disastrous results than at this time Christopher Hagerman went to England and was successful in persuading Mr Stanley of his innocence of intentional disobedience, so that, within three months, he was reinstated in his former position Henry Boulton also travelled to London but it was impossible for him to receive back his attorney generalship, as it had already been given to Robert Sym普森 Jameson<sup>3</sup> He was, however, very soon appointed Chief Justice of Newfoundland This change of policy plunged both Mackenzie and the English Radicals into the depths of despair<sup>4</sup> The Canadian Reformer petitioned wildly against the reappointment of Hagerman, declaring that such an act 'would be a spoke in the wheel of another violent revolution in America'<sup>5</sup> On the failure of this memorial, he exclaimed bitterly, I am disappointed The prospect before us is indeed dark and gloomy'<sup>6</sup>

<sup>1</sup> Cf p 125

<sup>2</sup> Cf pp 10-11

<sup>3</sup> W S Wallace *Dictionary of Canadian Biography*, p 199

<sup>4</sup> On 24 June 1833 Joseph Hume wrote Indeed the promotion of Mr Boulton to a high judicial office in Newfoundland after the declaration of Lord Goderich of his conduct and unsuitness for office I consider as an insult to the people of Upper Canada and to every lover of good government and it may be taken as an earnest that he will support the misgovernment which Lord Goderich has set himself against Cf C Lindsey op cit vol i p 279

<sup>5</sup> Cf C Lindsey op cit vol i, p 278

<sup>6</sup> Ibid p 279



From this time there appears a new development in Mackenzie's career and policy, with the beginnings of his later revolutionary principles and ideas. In spite of his favourable reception, his visit to England had been a failure, as only the reform of the Post Office was finally carried out. Never again did Mackenzie advocate appeal to Great Britain as he had done so often in the past. As a result of Hagerman's reappointment, Mackenzie concluded that there was little reason to hope for any important administrative reforms from the Imperial Parliament. He was rightly convinced that the introduction of responsible government could only be achieved in the teeth of the determined opposition of the Family Compact and, also, of the Mother Country. On his return to Canada, therefore, Mackenzie came to a close understanding with Louis Joseph Papineau. Previously, economic differences had created a coolness between the two provinces,<sup>1</sup> but common political interests were now proving more powerful. Papineau soon came to exercise a considerable influence over Mackenzie, in whom he aroused a profound admiration. The proceedings of a Radical Convention, which met in 1834, was one of the first indications of Mackenzie's alliance with the leader of the French Party. The demand for an elective Legislative Council was put forward for the first time, obviously in imitation of Lower Canada, where this had been urged as a necessary reform for many years,<sup>2</sup> while a vote of thanks was offered to Papineau and his fellow-reformers for their co-operation in the struggle for liberty. The seal of Papineau's influence was finally fixed when, in the company of a disaffected Catholic priest, Dr. O'Grady, Mackenzie visited Lower Canada to bring about a complete alliance between the leading men of both

powerful influence on the political situation because Mackenzie was foolish enough to publish it. The Moderates especially the Methodists led by Egerton Ryerson<sup>1</sup> became seriously alarmed and voted an address to the governor Sir John Colborne<sup>2</sup> in which they disclaimed with strong feelings of indignation the recent avowal of revolutionary principles and purposes.<sup>3</sup> There being no middle party they were obliged to throw in their lot with the Tories. This disaffection was all the more important because a few influential members of the Radical Party notably Robert Baldwin<sup>4</sup> had disapproved of the French Alliance and had seceded from the party. Mackenzie did not realize what a great loss he was sustaining and thought it could easily be remedied by the formation of various societies and organizations. A society for the propagation of democratic principles called the Canadian Alliance Society was formed at Toronto on 9 December 1834. The society had eighteen avowed objects the chief of which referred to the problems of responsible government the clergy reserves and finance. It was denounced by the Tories as revolutionary but it enjoyed a considerable popularity and became the forerunner of several other political societies which soon became a feature of Canadian public life.

There was indeed considerable justification for Mackenzie's optimism for his popularity was probably at its height. His expulsions from the Assembly now numbered five<sup>5</sup> and popular imagination saw in him a noble victim in the cause of liberty and reform.<sup>6</sup> So great was the esteem in which he was held that when in March 1834 the town of York was incorporated as a city under its old name of Toronto Mackenzie

<sup>1</sup> Cf. W. S. Wallace *Dictionary of Canadian Biography* pp. 354-5 also pp. 50-149.

<sup>2</sup> Sir John Colborne was Lieutenant Governor of Upper Canada from 1828 until 1836. A soldier of some distinction he possessed much common sense which enabled him to govern the province with advantage in many ways. Cf. p. 64 seq.

<sup>3</sup> Address of Methodist Conference to the Governor 20 June 1834. Cf. C. Lindsey op. cit. vol. 1 p. 302.

<sup>4</sup> Cf. pp. 107.

<sup>5</sup> (1) 1831 12 December by a vote of 24 to 15.

(2) 1832 6 January by a vote of 27 to 19.

(3) 1832 2 November by a vote of 15 to 8.

(4) 1833 17 November by a vote of 22 to 18.

(5) 1834 10 February after being sworn before the Clerk of the Privy Council.

<sup>6</sup> Many violent petitions expressing these sentiments were sent to the governor. Cf. C. Lindsey op. cit. vol. 1 pp. 299-300.

was elected alderman and the first mayor. It was not, therefore, surprising that, in spite of the "baneful domination letter" and the French alliance, the Radical Party should sweep the country in the elections of 1834. Immediately, Mackenzie clearly defined his policy. "I would impress upon the House the importance of two things: the necessity of getting control of the revenue raised in this country, and a control over the men sent out here to govern us by placing them under the direction of responsible advisers."<sup>1</sup> At the same time, he showed his utter lack of confidence in the Imperial Parliament by writing to Joseph Hume, "none of which, I believe, will be conceded until it is too late."<sup>2</sup> Within ten days of the opening of the Assembly, Mackenzie moved for a select committee to inquire into the grievances of the province. This committee produced the famous Seventh Report on Grievances.<sup>3</sup> There is much in the report that is irrelevant but, on the whole, it is temperately written and does considerable credit to its authors. It struck at the root of the colonial grievances by declaring that the great cause of discontent was to be found in the unlimited and irresponsible patronage of the Crown. "One great excellence of the English constitution consists in the limits it imposes on the will of a king by requiring responsible men to give effect to it. In Upper Canada no such responsibility can exist. The Lieutenant Governor and the British Ministry hold in their hands the whole patronage of the province and leave the representative branch of the Legislature powerless and dependent."<sup>4</sup> To remedy this state of affairs it was proposed that responsible government should be granted by the cession of an elective Legislative Council.

The report was sent to England where it created a considerable impression upon the Colonial Office. The Imperial Parliament did not understand why the Canadian Colonies did not progress as favourably as the United States and seemed quite unable to realize that there was something wrong with the whole colonial system. Willing to conciliate wherever possible the Colonial Office was utterly opposed to "the introduction of any new and hazardous schemes."<sup>5</sup>

<sup>1</sup> C. Lindsey op cit vol 1 p 328

<sup>2</sup> Ibid p 353

<sup>3</sup> Seventh Report on Grievances Cf C. Lindsey op cit vol 1 pp 330-8

<sup>4</sup> Cf C. Lindsey vol 1 p 333

<sup>5</sup> Instructions to Sir Francis Bond Head 1835 Cf W. P. M. Kennedy, op cit, p 420

more than coincided with these instructions but in spite of John Strachan's activities he had been unable owing to the political unrest to carry them out. In 1831 and 1832 Sir John Colborne discussed the matter with Lord Goderich then Colonial Secretary and it was only after mature consideration that he signed the patents establishing the forty-four rectories.<sup>1</sup> Although the imperial authorities had been carefully consulted the province was quite unprepared for this crushing and unexpected blow. Intense excitement and perturbation reigned in all parts because if these patents were ratified the clergy reserves would be definitely handed over to the Church of England and nothing else could be done with them.<sup>2</sup> Years before such an action might probably have evoked but little comment<sup>3</sup> but in 1836 together with the general political excitement it aroused a furious storm of opposition to the Established Church and its political supporters.

The new governor Sir Francis Bond Head<sup>4</sup> who was sent out to deal with this most difficult situation of violence and conflicting interests was by no means fitted to carry out the duty of reconciliation. Fairly described as one of the most agreeable writers of light literature and one of the most

deplorable of the politicians of our day,"<sup>1</sup> he was of a violent yet obstinate nature. Though scrupulously honest and well-meaning, his rash and arbitrary temperament overshadowed his better qualities. Since Sir Francis had had no previous political experience, his views on all leading questions were largely a matter of conjecture. Owing mainly, however, to a letter from Joseph Hume to William Lyon Mackenzie,<sup>2</sup> to his own surprise, on his arrival in Toronto early in 1836, Sir Francis Bond Head found himself described, upon all the placards, as a tried Reformer. This was far from the truth. Even before his arrival in the province he seemed to have decided that the Radicals (whom he called Republicans) were working for separation from Great Britain from the very lowest of motives. "As far as I am able to judge I should say that the Republican party are implacable that no concession would satisfy them, their self-interested object being to possess themselves of the government of the province for the sake of lucre and emolument."<sup>3</sup> Their leader, Mackenzie, he utterly despised as the "arch-agitator of the province."<sup>4</sup> Finding, however, that, owing to Hume's letter, the Tones received him coldly, Head quickly decided on the policy he intended to pursue. "Under these circumstances, I considered that the great danger I had to avoid was the slightest attempt to conciliate any party that the only course for me to adopt was to act fearlessly, undisguisedly and straightforwardly for the interests of the country, to throw myself on the good sense and good feeling of the people and abide a result which I firmly believe will eventually be triumphant."<sup>5</sup>

Sir Francis soon had a chance to put his policy into practice. In 1836, the Executive Council had been reduced to three members. Desiring to make the addition to the Council "from the middle party, instead of from either of the two extremes,"<sup>6</sup> Head appointed three of the more moderate Radicals to fill the

<sup>1</sup> *Edinburgh Review*, vol lxxxv p 358

<sup>2</sup> "My anxiety is that you and all the Reformers should receive Sir Francis in the best possible manner and do everything consistent with principle to meet his views and wishes. We think Sir Francis will do what is possible to conciliate and settle matters and you must make allowance for the instructions he may have from Downing Street where I do not think they have yet come to the resolution of doing to the colonists what they are doing or striving to do for the people of the United Kingdom. Cf Sir Francis Bond Head *A Narrative* p 47.

<sup>3</sup> Cf Sir Francis Bond Head *op cit.* p 49

<sup>4</sup> *Ibid* p 112

<sup>5</sup> *Ibid* p 43

Dispatch of 5 February 1836

<sup>6</sup> *Ibid*, p 53

It was decided that the few reforms that Great Britain was willing to grant would be better received from a new governor, so the reply to the report took the form of Instructions<sup>1</sup> to Sir Francis Bond Head.<sup>2</sup> This effort to conciliate the insubordinate colonists was weak and feeble, being chiefly concerned with the recommendations of Lord Goderich's dispatch of 8 November, 1832,<sup>3</sup> because, concerning responsible government, British statesmen were implacable. They were convinced that it must lead directly to separation from the Mother Country.<sup>4</sup> Indeed, it was strongly denied by the Colonial Office that there was any lack of responsibility, for it was maintained that all public servants, and especially the governor, were responsible for all their acts to the Home Government. "To His Majesty and to Parliament, the Governor of Upper Canada is at all times most fully responsible for all his official acts. . . . This responsibility to His Majesty and to Parliament is second to none which can be imposed on a public man, and it is one which is in the power of the House of Assembly, by address or petition, to bring into active operation."<sup>5</sup> It was now obvious to all Reformers that no great changes could be wrung from the Imperial Parliament. Two courses only were open to them. They had to endeavour, either to make the existing system work as smoothly as possible, or to grasp what they desired in spite of the opposition of the Mother Country. The extremists under Mackenzie quickly drifted towards the latter course and towards open rebellion.

Mackenzie's policy was made almost inevitable by the mistakes of the lieutenant-governors. The last action of Sir John Colborne, the retiring governor, spoiled the fruits of a long administration of caution and justice. After the accession of the Whigs to power in 1831, the pretensions of the Church of England<sup>6</sup> were no longer vigorously supported in Britain, and efforts were made to conciliate the dissenting sects. A grant of seven hundred and fifty pounds per year, later increased to one thousand pounds, brought the simple and devout Roman Catholic population to the side of the Government. The Church of Scotland was given an allowance

<sup>1</sup> Instructions to Sir Francis Bond Head, 3 December, 1835. Cf. W. P. M. Kennedy, *op. cit.*, pp. 412-21.

<sup>2</sup> Cf. p. 66.

<sup>3</sup> Cf. p. 59.

<sup>4</sup> Cf. pp. 44-5.

<sup>5</sup> Instructions to Sir Francis Bond Head, 3 December, 1835. Cf. W. P. M. Kennedy, *op. cit.*, p. 419.

<sup>6</sup> Cf. pp. 49-52.

from the Canada Company which appeased, but by no means satisfied, its members. The Independent Presbyterians, however, were completely pacified by an annual grant of seven hundred pounds. Moreover, after 1833, the Methodists ceased to aid the Radicals. In that year, a union was made between the main body in the province and the British Wesleyans, and, from that time, politics ceased to appear in the *Christian Guardian*, that erstwhile powerful organ of Reform, edited by Egerton Ryerson. This change was effected not only as a result of Ryerson's apprehensions at the rashness of Mackenzie's policy,<sup>1</sup> but also because, in 1829, the chief political grievance of the Methodists, excepting the clergy reserves, had been removed when a Bill was passed allowing Dissenting ministers to perform the ceremony of marriage.<sup>2</sup> The religious troubles, therefore, seemed to be sinking to rest, and appeared likely to remain in the background until the political life of the province had become more stable, when the subsiding controversy was suddenly stirred to its fiercest fury in 1836. The unfortunate stroke of policy which caused this catastrophe was the establishment of forty-four rectories for the Church of England. The idea was not a new one, but it was forcibly brought before the lieutenant-governor in 1834 because, in that year, the allowance made by the Society for the Propagation of the Gospel in Foreign Parts to the Church of England in Upper Canada, ceased. Although some of the clergy reserves were sold annually, the Church of England would still need a considerable sum to enable it to maintain its position in the colony. The erection of parsonages seemed to Colborne the best way of providing for the Anglican clergy besides, at the same time, ending the adverse criticism which had recently arisen concerning the grant made to the Established Church from the provincial revenue.<sup>3</sup> As early as 1818, and again in 1825, Lord Bathurst had advised the lieutenant-governor to erect parsonages in each township in accordance with articles of the Constitutional Act.<sup>4</sup> The views of Sir Peregrine Maitland,<sup>5</sup> the Governor of Upper Canada from 1818 to 1828, had

more than coincided with these instructions, but, in spite of John Strachan's activities, he had been unable, owing to the political unrest, to carry them out. In 1831 and 1832, Sir John Colborne discussed the matter with Lord Goderich, then Colonial Secretary and it was only after mature consideration that he signed the patents establishing the forty-four rectories.<sup>1</sup> Although the imperial authorities had been carefully consulted, the province was quite unprepared for this crushing and unexpected blow. Intense excitement and perturbation reigned in all parts because, if these patents were ratified, the clergy reserves would be definitely handed over to the Church of England and nothing else could be done with them.<sup>2</sup> Years before such an action might probably have evoked but little comment<sup>3</sup> but in 1836 together with the general political excitement, it aroused a furious storm of opposition to the Established Church and its political supporters.

The new governor, Sir Francis Bond Head,<sup>4</sup> who was sent out to deal with this most difficult situation of violence and conflicting interests, was by no means fitted to carry out the duty of reconciliation. Fairly described as "one of the most agreeable writers of light literature and one of the most

<sup>1</sup> There were fifty nine patents in all but Colborne only signed forty four.

<sup>2</sup> An agent William Morris was sent to England to explain the views of the majority. The establishment of the rectories was at first pronounced invalid by the Home Government but when Lord Bathurst's Instructions of 1825 were studied it was declared to be quite legal. Between the two decisions however the rebellion of 1837 took place. No more parsonages were established but the rebellion led to the settlement of Lord Sydenham Cf. pp. 111-12.

<sup>3</sup> A minute of the Executive Council of Upper Canada 5 January 1830 explains the causes of the delay. They were firstly owing to a desire to avoid interfering with persons who might have acknowledged claims to any of the reserves to be selected either for lease or purchase and secondly owing to the Crown officers not concurring in the form to be used in the instrument by which the endowment was to be confirmed which left the Council to decide as to the mode to be adopted for that purpose.

<sup>4</sup> Sir Francis Bond Head was born in 1793 and was educated at Rochester Grammar School and the Royal Military Academy Woolwich. He served with distinction in the Napoleonic Wars and attracted the attention of Blücher. In 1825 he went to South America in charge of some gold and silver mines and on his return to England he published a book entitled *Rough Notes of Journeys in the Pampas and Andes* which brought him considerable literary fame. In 1828 he retired from the army on half pay and between 1830 and 1834 he published two works *The Life of Bruce the Abyssinian Traveller* and *Bubbles from the Brunns of Nassau*. In 1834 he was appointed a Poor Law Commissioner for one of the English districts where he performed his duties with much ability and attracted attention by the introduction of several well-considered reforms. On his appointment as Governor of Canada in 1835 his political views were thus quite unknown.



deplorable of the politicians of our day,"<sup>1</sup> he was of a violent yet obstinate nature. Though scrupulously honest and well-meaning, his rash and arbitrary temperament overshadowed his better qualities. Since Sir Francis had had no previous political experience, his views on all leading questions were largely a matter of conjecture. Owing mainly, however, to a letter from Joseph Hume to William Lyon Mackenzie,<sup>2</sup> to his own surprise, on his arrival in Toronto early in 1836, Sir Francis Bond Head found himself described, upon all the placards, as a tried Reformer. This was far from the truth. Even before his arrival in the province he seemed to have decided that the Radicals (whom he called Republicans) were working for separation from Great Britain from the very lowest of motives. 'As far as I am able to judge I should say that the Republican party are implacable that no concession would satisfy them, their self-interested object being to possess themselves of the government of the province for the sake of lucre and emolument.'<sup>3</sup> Their leader, Mackenzie he utterly despised as the "arch-agitator of the province."<sup>4</sup> Finding, however, that, owing to Hume's letter, the Tories received him coldly, Head quickly decided on the policy he intended to pursue. "Under these circumstances I considered that the great danger I had to avoid was the slightest attempt to conciliate any party that the only course for me to adopt was to act fearlessly, undisguisedly and straightforwardly for the interests of the country, to throw myself on the good sense and good feeling of the people and abide a result which I firmly believe will eventually be triumphant."<sup>5</sup>

Sir Francis soon had a chance to put his policy into practice. In 1836, the Executive Council had been reduced to three members. Desiring to make the addition to the Council from the middle party, instead of from either of the two extremes,<sup>6</sup> Head appointed three of the more moderate Radicals to fill the

<sup>1</sup> *Edinburgh Review* vol lxxxv p 358

<sup>2</sup> My anxiety is that you and all the Reformers should receive Sir Francis in the best possible manner and do everything consistent with principle to meet his views and wishes. We think Sir Francis will do what is possible to conciliate and settle matters and you must make allowance for the instructions he may have from Downing Street where I do not think they have yet come to the resolution of doing to the colonists what they are doing or striving to do for the people of the United Kingdom. Cf Sir Francis Bond Head

<sup>3</sup> *Narrative* p 47

<sup>4</sup> Cf Sir Francis Bond Head *op cit* p 49

<sup>5</sup> *Ibid* p 112

<sup>6</sup> *Ibid* p 43

Dispatch of 5 February 1836

<sup>7</sup> *Ibid* p 53

vacancies<sup>1</sup> The Tories were at first seriously alarmed at this indication of the governor's policy but it soon became quite clear that he had no intention of seriously consulting his councillors Two appointments to offices were made without their knowledge and Head refused to consent to a Bill which had been passed by both branches of the Legislature There fore on 4 March 1836 the entire Executive Council (including both the old and new members) remonstrated with Head upon this irresponsible conduct and upon his refusal to promise to abide by their advice in future all the councillors resigned on 12 March The attitude of Sir Francis in this crisis was characteristic of his whole administration That I was sentenced to contend on the soil of America with Democracy and that if I did not overpower it it would overpower me were solemn facts which for some weeks had been perfectly evident to my mind<sup>2</sup> The majority in the Assembly immediately espoused the cause of the retired Executive Councillors<sup>3</sup> while the Tories began slowly to rally round the governor<sup>4</sup> Sir Francis was determined never to give way because he was convinced that an Executive Council not entirely dependent on himself would lead to democracy in the worst possible form<sup>5</sup>

The greatest excitement prevailed in all parts of the province The Assembly in an endeavour to force the governor to give way at length resorted to an expedient never tried before in Upper Canada but continually used in Lower Canada namely the refusal of the grant for the civil list<sup>6</sup> Head met this crisis not with patient diplomacy or tact but with a fierce counter move The Assembly was immediately prorogued and was

finally dissolved on 28 May, 1836. In the elections which ensued, Sir Francis, now loyally supported by the Family Compact, carried on an active campaign against the Reformers and, by a series of vigorous addresses to various parts of the province,<sup>1</sup> he succeeded in arousing the old United Empire Loyalist spirit. The contest was presented to the inhabitants as a choice between maintaining the connection with Great Britain or embracing definite republicanism. The Reformers were equally energetic and presented to the colonists a programme embracing a complete reform of the whole administration, which included an elective Legislative Council, an Executive Council responsible to public opinion, the control of all the revenue raised in the province, and a cessation of interference on the part of the Colonial Office.<sup>2</sup> The majority of the colonists, however, were alarmed by the reckless speeches and violent suggestions of some of the extremists,<sup>3</sup> and were also flattered by the direct appeal of the governor. The Tories, therefore, won a great victory. The final hopes of the Radicals were crushed, and they were now irrevocably alienated from the governor and the Crown which he represented.<sup>4</sup> Even Head seemed to realize that his conduct had not been "exactly according to Hoyle," but he tried to excuse himself by declaring that "it is impossible to put down republicanism with soft words."<sup>5</sup> Viewed, however, from a different standpoint, the conduct of the lieutenant-governor was really a vindication of the claims of the Radicals for responsible government. Sir

<sup>1</sup> In a message to the Home District Head declared: "The people of Upper Canada detest democracy: they revere their constitutional charter and are consequently staunch in allegiance to their King. They are perfectly aware that there exists in the Lower Province one or two individuals who inculcate the idea that this Province is about to be disturbed by the interference of foreigners whose power and whose numbers will prove invincible. In the name of every regiment of militia in Upper Canada I publicly promulgate let them come if they dare." Cf. Sir Francis Bond Head *op cit* pp. 110-11.

<sup>2</sup> These views were very fully expressed in a letter from Mackenzie to Joseph Hume in December 1835. Cf. C. Lindsey *op cit* vol. 1 p. 353.

<sup>3</sup> On 27 June 1836 during the election campaign Mackenzie said: "I dare not conceal from you my fears that the power that has oppressed Ireland for centuries will never extend its sympathies to you. If the reply [i.e. to the petition sent to England] be unfavourable as I am apprehensive it will for the Whigs and Tories are alike dishonest contending factions of men who wish to live in idleness upon the labours of honest industry then the Crown will have forfeited one claim upon British Freemen in Upper Canada and the result is not difficult to foresee." Cf. C. Lindsey *op cit* vol. 1 p. 379.

<sup>4</sup> Mackenzie immediately began to publish a new paper, the *Constitution*, the tone of which was openly revolutionary and aggressive.

<sup>5</sup> Cf. Sir Francis Bond Head *op cit* p. 111.

Francis continually reiterated his confidence in the good sense and intelligence of the colonists<sup>1</sup> and in the election of 1836 he called upon them directly to ratify his policy. Head did not realize that he was the dupe of his own propaganda that this was true democracy whether the Executive was responsible to the Assembly or not.

The very completeness of his victory proved the undoing of Sir Francis Bond Head. He adopted to the full the high handed and arbitrary policy of Sir Peregrine Maitland<sup>2</sup> and thus seemed to confirm the Radical cry that good government was impossible until the whole administration of the province was controlled by the Assembly. The case of George Ridout is an unfortunate sign of this tendency and seemed a revival of the persecutions of Matthews and Forsythe<sup>3</sup>. Ridout was ruthlessly dismissed from his various official positions<sup>4</sup> simply because he had been present at a meeting of one of the more extreme Radical societies although not a proper member of it. Moderate opinion was further alienated by the refusal of the governor to elevate Marshall Spring Bidwell to the Bench on account of his political views<sup>5</sup>. Unconsciously by his very policy Head was proclaiming the necessity of the reforms advocated by the Radical Party.

While Sir Francis Bond Head was steadily raising opposition in all parts of the province William Lyon Mackenzie was carrying on a ceaseless agitation against the Government encouraged by Papineau in Lower Canada and the Radical<sup>6</sup> and Irish leaders in Great Britain<sup>7</sup>. The colony was a network of secret societies. In the summer of 1837 the Reformers of Lower Canada appealed to the other British provinces and also to the United States for assistance in their struggle. Thus co-operation the Reformers of Upper Canada were

<sup>1</sup> I should do injustice to the people of Upper Canada were I now to deny to them the sole honour of a moral victory obtained by their fervent loyalty as well as by their deliberate attachment to our happy institutions. Cf Sir Francis Bond Head op cit p 153

<sup>2</sup> Cf pp 52-3-65

<sup>3</sup> Cf p 53

<sup>4</sup> He was a Judge of the Niagara Court Justice of the Peace and Colonel of the 2nd Regiment of East York Militia

<sup>5</sup> Divested of all its objectionable language Mr Bidwell's object (so far as could be elicited by the conduct of his associates) was to separate this country from the parent state. I therefore considered that publicly to elevate Mr Bidwell to the Bench would deprive me of the respect and confidence of this country. Cf Sir Francis Bond Head op cit p 273

<sup>6</sup> Hansard 1837 vol xxxvi p 1324 seq

<sup>7</sup> Hansard 1837 vol xxxvi p 92

determined to give On 2 August, 1837, a "Declaration of the Reformers of Toronto to their Fellow Reformers in Upper Canada"<sup>1</sup> was published in a Reform journal, the *Constitution*. This remarkable document maintained the right of the colonists to rebel for "cheap, honest, and responsible government" their argument being based on the utilitarian theory of the greatest happiness for the greatest number. Everything was ready. Only the spark from Lower Canada was needed to start a conflagration in the Upper Province.

The revolt in Upper Canada proved, largely owing to the mismanagement of its leaders to be but a feeble reflection of the insurrection in the other province, and was thus easily suppressed. Nevertheless, in the colonial history of Great Britain, its importance cannot be over-estimated. Peopled in the first instance by an ultra-loyal population this same province had been brought to seething discontent and open rebellion. We have seen how every possible device had been tried by the colonists before this drastic step was taken. Continual agitation and obstruction within the colony, and systematic appeal to the Imperial Parliament over the head of the Executive, had been crowned with failure as far as good and efficient administration was concerned. To the colonists, the evils of imperial government appeared to be incurable. To the Mother Country, it seemed as if it was impossible to satisfy the colonists—that they had no desire to help the Mother Country, but merely wished to prey upon her resources until able to stand alone. The rebellions in Canada proved, beyond all doubt, as certain Reformers in England had realized for several years,<sup>2</sup> that the colonial administration was quite inadequate for the needs of that time.<sup>3</sup> The system had been tolerable in the early days of the history of the province, but that time had passed, and the restrictions which had fostered the development of a young colony now seriously stunted its growth. After trying all other methods, the colonists were endeavouring, by force of arms, to compel the Mother Country to realize the fact that they were no longer children, that they were entitled to and capable of enjoying a large measure of self government. Great Britain was faced with one of the greatest crises in her history, for the complaints of the people of Canada would, in a few years, have been those of Australia.

<sup>1</sup> Cf. C. Lindsey, *op cit.*, vol. II, Appendix D, pp. 334-44.

<sup>2</sup> Cf. chapter I, p. 15 *seq.*

<sup>3</sup> Cf. p. 17 *seq.*

and South Africa. It was not only a question of how Canada was to be governed but also of whether the sovereignty of Great Britain should be limited to these islands in the North Sea or whether it should spread majestically, in all parts of the world. If she failed a second time to conciliate her imperial policy with the aspirations of the New World her position and prestige as a colonial power would be entirely destroyed. On the other hand however if she was able to maintain her rule over Canada it would prove that she had learnt her lesson that she knew at last how to retain her colonies as well as to give birth to them.

## CHAPTER III

## LORD DURHAM'S REPORT

THE news of rebellions in the Canadas made a great impression on men of all shades of opinion in Great Britain. The old system was completely discredited and although some of the Tories still clung tenaciously to it,<sup>1</sup> it was obvious to the majority that a new order of things must be established. To the Radicals and the pessimistic school which then very largely held sway, the revolt came as a most natural event and the cry, "Emancipate your Colonies!" was raised more loudly than ever.<sup>2</sup> Even those who previously had been merely apathetic were aroused from their indifference and seemed likely to join in the general denunciation of imperial aspirations. "The burden but not the glory of the Empire was realized, the chances of war and disaster were seen all too well but not the opportunities of advancement, the wealth of vast and undeveloped resources, and of the moral prestige."<sup>3</sup> Although these opinions were so widely disseminated throughout the country, it was impossible for the Government at the first spark of rebellion to withdraw completely from the colony.<sup>4</sup> The official view of the matter was well expressed by Lord

<sup>1</sup> I must say however that my firm conviction is that if they had acted with ordinary decision and not encouraged the malcontents by their vacillating conduct for the last three years we should have had no outbreak at all.—Lord Stanley 1 January 1838 Cf *Sir Robert Peel From his Private Papers* ed by C S Parker vol II p 355

<sup>2</sup> I really hold these colonies to be worth nothing. The only interest we have in the matter concerns the mode in which the separation sooner or later inevitable shall take place.—Lord Brougham 18 January 1838 Cf *Hansard Parliamentary Debates* 1838 vol XI p 213

If we are wise we shall arrange all matters in Canada and in our North American possessions so as to prepare them when a separation shall come as come it must to be an independent nation.—T Roebuck 22 January 1838 *Ibid* p 310

<sup>3</sup> *Life and Letters of the Earl of Durham* ed Stuart J Reid vol II p 142

<sup>4</sup> This aspect of the trouble is well expressed by Sir Robert Peel in a speech in the House of Commons on 16 January 1838. It was unwise to apply the principle of separation with respect to the Canadas because there had been at Richelieu and St Denis some slight insurrection. Cf *Hansard* 1838 vol XI p 69 seq

Melbourne the Prime Minister in a letter to the Earl of Durham. The final separation of those colonies might possibly not be of material detriment to the interests of the Mother Country but it is clear that it would be a serious blow to the honour of Great Britain and certainly would be fatal to the character and existence of the Administration under which it took place.<sup>1</sup> The ministry decided therefore to suspend the constitution of Lower Canada, in which province the conflict had been fiercer, and to send out a Royal Commission with very full powers to investigate the causes of unrest.

It was the supreme good fortune of Great Britain that Lord Durham,<sup>2</sup> a member of Edward Gibbon Wakefield's brilliant little band of Reformers,<sup>3</sup> was appointed to this most important position.<sup>4</sup> You are the fittest man for it certainly the fittest in my opinion. You have every quality which will enable you to perform such a duty, and your character your station and your abilities all combine to give you a weight and influence and to command for you a respect and confidence which will attend on no other individual.<sup>5</sup> Like all Wakefield's disciples he had Radical tendencies<sup>6</sup> and possessed a

<sup>1</sup> Letter of 22 January 1837. Cf. Stuart J. Reid op. cit. vol. II p. 137.

<sup>2</sup> Lord Durham was born in 1792. After two years in the army he was elected to the House of Commons in 1813. In 1816 he married the eldest daughter of Earl Grey and was soon taken into the confidence of the Whig leaders. But his sympathies were with the Radicals. In 1819 he proposed a resolution for shortening the duration of Parliament and for a wide extension of the franchise. He soon became one of the leaders of the advanced party. In 1825 came his first conflict with Lord Brougham with whom he had previously been on friendly terms because he refused to compromise on the question of Catholic emancipation. In November 1830 Durham entered the Grey Cabinet as Lord Privy Seal and was later chairman of the famous Committee of Four which drew up the Reform Bill. After the passing of the Reform Bill he was sent on a difficult diplomatic mission to Russia. On his return in 1833 he resigned his offices ostensibly owing to ill health but really because he disapproved of Stanley's Irish policy. From 1835 to 1837 he was ambassador at St. Petersburg but he held no other high office in England owing to his Radical tendencies.

<sup>3</sup> Cf. p. 15 seq.

<sup>4</sup> Queen Victoria was pleased to express her satisfaction at Lord Durham having accepted the office of Governor General of Canada. — Queen Victoria in a letter to Lord Melbourne 15 January 1838. Cf. *Letters of Queen Victoria* vol. I p. 133.

<sup>5</sup> Letter of Lord Melbourne 22 July 1837 asking Durham to go to Canada. Cf. Stuart J. Reid op. cit. vol. II p. 138.

<sup>6</sup> In his first great speech in the House of Commons on Parliamentary Reform Durham advocated an extension of the franchise to all holders of property the division of the country into electoral districts and the disfranchisement of rotten boroughs.



frank confidence in popular liberty and freedom. For this reason and also because of the vagaries of his temper,<sup>1</sup> his political position in England was a peculiar one. "Nobody denies that he is a man of ability, but he has not greatly distinguished himself, perhaps from having no fair opportunity to do so. He has long been looked upon as a man of extreme and dangerous opinions by the Conservatives, and he never could agree with the Whigs when he was their colleague. To them generally he was an object of personal aversion. Latterly he has been considered the head of the Radical Party, and that party, who are not rich in Lords and who are not insensible to the advantage, gladly hailed him as their chief."<sup>2</sup> Personally Durham was a man of high character and transparent honesty of great courage and promptness in action but also lordly arrogant quick tempered and imperious. These very qualities however which made him an almost impossible colleague were of service for the special mission on which he was employed. He was moreover a fervent imperialist, realizing to the full the possibilities latent within the Empire, and inspired by a glorious vision of the Greater Britain of the future.

The appointment of Lord Durham as Governor General of Canada offered to the Colonial Reformers their great opportunity of giving a practical exposition of the political theories that they had advocated for so long. Durham fully agreed with the avowed aims of the Colonization Society<sup>3</sup> and he was accompanied on his mission by two of its leading members Edward Gibbon Wakefield<sup>4</sup> himself and Charles Buller<sup>5</sup>. The latter was Durham's chief secretary and it had also been intended to give an official position to the former but his past stood in the way and he only accompanied the mission in an unofficial capacity. The proof of their theories would depend upon the results of their efforts in Canada. The Government had failed to avert the catastrophe. If the Reformers

<sup>1</sup> Durham made another exhibition of temper at the Cabinet dinner last Wednesday. While Lord Grey was saying something he rudely interrupted him as his custom is. Lord Grey said: "But my dear Lambton only hear what I was going to say when the other jumped up and said: 'Oh if I am not to be allowed to speak I may as well go away' rang the bell ordered his carriage and marched off." — Charles Greville *Journals of the Reigns of George IV and William IV* vol II p 269 12 March 1832.

<sup>2</sup> Charles Greville *Journal of the Reign of Queen Victoria* (1837-52) vol I p 54 5 February 1838.

<sup>3</sup> Cf p 15.

<sup>4</sup> Cf p 15.

<sup>5</sup> Cf p 15.

effected a tranquil settlement of all the points at issue it was very probable, therefore that the Imperial Parliament would be convinced of the practical value and soundness of their views. The future of the Empire depended upon this mission.

Lord Durham went to Canada with wider powers than had ever been accorded to any previous representative of the Crown. The Royal Commission by which he was appointed gave him a threefold authority. In the first place he was like his predecessors Governor in Chief of Lower Canada, Upper Canada, Nova Scotia, New Brunswick and Prince Edward Island, but not of Newfoundland. In the second place, he was High Commissioner to do special work in two of the provinces. In the third place he was Governor General of all the British possessions in North America, including Newfoundland.

On his arrival in Quebec towards the end of May 1838, the new Governor General was given a magnificent reception and his Proclamation<sup>1</sup> which in some measure foreshadowed his policy was well received. The French were for the moment, sullen, disillusioned and cowed, but eager for a protector. On the other hand the British, whose interests especially, had suffered from a succession of weak rulers welcomed him warmly as a strong man who would tackle their problems vigorously and who would not be afraid to act accordingly. The situation however was still very critical. The rebellion had been suppressed but there was considerable disaffection in many parts of the colony. I saw a letter yesterday with a very bad account of Canada. It was to Lord Lichfield from his post master there a sensible man, and he describes the beaten Canadians as returning to their homes full of sullen discontent, and says we must by no means look upon the flame as extinguished however for the time it has been smothered. On the other hand there are the English victorious and exasperated with arms in their hands and in that dangerous state of mind which is the result of conscious superiority moral and intellectual military and political but of (equally conscious) physical—that is numerical—inferiority. All this proves that Durham will have no easy task.<sup>2</sup>

Durham soon showed that he was not afraid to act regardless of others. He refused to avail himself of the Special Council

<sup>1</sup> Cf. F. Bradshaw *Self Government in Canada* pp. 138-9 also Stuart J. Reid op cit pp. 183-4.

<sup>2</sup> C. Greville *Journal of the Reign of Queen Victoria* (1837-52) vol. i pp. 53-6 5 February 1838.

which had been called together by Sir John Colborne,<sup>1</sup> who had been governing the province since the outbreak of the rebellion. Its members must necessarily be connected with the great political controversy, and Durham was determined that his administration should be free from all party feeling and that it should rest on his own individual responsibility. He immediately appointed a new Council, composed of Charles Buller, Thomas Turton,<sup>2</sup> Colonel Couper (the military secretary), Dominick Daly (the provincial secretary), and the Commissary-General. "The act of dispensing with the old Executive Council and the statement of the grounds on which it was done, were not unpalatable to the British and were very gratifying to the French-Canadians."<sup>3</sup>

The first important question requiring settlement was the treatment to be accorded to those guilty of rebellion. This should have been decided by Sir John Colborne, but it had been postponed for the decision of Lord Durham.<sup>4</sup> Three hundred and forty of the prisoners had been liberated, but one hundred and seventy-four were still detained. The situation was a most difficult one because the jury system in Lower Canada had completely gone to pieces.<sup>5</sup> It would have been impossible to obtain a condemnation of these men by a normal and legal process, and it did not seem expedient to allow them to go free. Moreover, a trial by martial law, so many months after the suppression of the rebellion, would not have been favourably regarded in England. Durham wished to be clement and yet to please all parties. He proclaimed, therefore, a comprehensive amnesty, which included the whole population, with the exception of eight prisoners who had been leaders in the uprising.<sup>6</sup> These rebels, on pleading guilty in a

<sup>1</sup> After relinquishing the government of Upper Canada, Sir John Colborne became commander-in-chief of the military forces in Canada and was, thus, largely instrumental in crushing the rebellion.

<sup>2</sup> The appointment of Thomas Turton to Durham's staff was very unfortunate. It caused considerable outcry in England, as Turton, though an able lawyer, had figured in a divorce case. Many attacks were made upon the Prime Minister on this account, and it became the cause of much misunderstanding and ill-feeling between Lord Melbourne and Durham.

<sup>3</sup> Charles Buller *Sketch of Lord Durham's Mission to Canada in 1838*, in Lord Durham's Report, ed. Lucas, vol. iii, pt. ii, p. 343.

<sup>4</sup> Cf. the Proclamation of Lord Durham, Appendix D.

<sup>5</sup> Cf. Lord Durham's Report on the Affairs of British North America, ed. Lucas, vol. ii, p. 88, and vol. iii, pt. iii, pp. 352-3.

<sup>6</sup> These men were Dr. Wolfred Nelson, R. S. M. Bouchette, R. des Rivières, L. H. Masson, H. A. Gauvin, S. Marchessault, J. H. Goddu, and B. Viger.

letter<sup>1</sup> to Lord Durham were by a special ordinance<sup>2</sup> banished to the Bermudas without a formal trial<sup>3</sup>. A further sixteen who had already absconded from justice were held liable to the death penalty if they re-entered the province. In a dispatch to Lord Glenelg, the Colonial Secretary, Durham explained his reasons for adopting this course. 'I did not think it right to transport these persons to a convict colony for two reasons: first because it was affixing a character of moral infamy on their acts which public opinion would not sanction and secondly, because I hold that it would be impolitic to force] on the colony itself persons who would be looked upon in the light of political martyrs and thus require, perhaps a degree of influence which might be applied to evil uses in a community composed of such dangerous elements.'<sup>4</sup>

However wide Durham's powers were, it was obvious that they did not include the power of banishment to the Bermudas. There were thus good technical grounds of complaint for the criticisms<sup>5</sup> which were directed against the ordinance in Parliament. Throughout Canada however there was a general consensus of opinion that Durham had wisely tempered justice with mercy and that it was to the credit of all concerned that the rebellion had ended without the judicial shedding of blood. This opinion was very largely held in England, especially among the Radicals. Lord Durham disposed of the prisoners in the only way compatible with his policy, a policy not of talking about conciliation but of aiming at it and never in a similar situation did any government, that we know of, act with a happier union of vigour and lenity.<sup>6</sup> A similar verdict was given in the *Annual Register*. It is very much to Lord Durham's credit that under the circumstances in which he was placed he refrained from taking advantage of the existing conditions of the jury law in the province.<sup>7</sup> Unfortunately Lord Brougham<sup>8</sup> who had a personal grudge

<sup>1</sup> Cf. Appendix E.

<sup>2</sup> An Ordinance to Provide for the Security of the Province of Lower Canada. Cf. *Parliamentary Reports* 1838. Canada p. 2.

<sup>3</sup> The Bermudas were chosen because many prisoners had been sent there during the years 1829-34.

<sup>4</sup> Dispatch from the Earl of Durham to Lord Glenelg 29 June 1838. Cf. *Parliamentary Reports* 1838 pp. 1-2.

<sup>5</sup> *London and Westminster Review* vol. 32 pp. 249-50.

<sup>6</sup> *Annual Register* 1838 p. 262.

<sup>7</sup> Lord Brougham, Lord Chancellor of England 1830-4, was born in 1778. Called to the Bar in 1808, he had already been a vigorous supporter of Fox and of the abolition of the slave trade. He took his seat in Parliament in 1810 and

against Durham,<sup>1</sup> appeared as the champion of outraged law: and the Duke of Wellington,<sup>2</sup> for once allowing party interests to warp his own judgment, joined the hue and cry.<sup>3</sup> The defence of their agent, by the Government, in the House of Lords, was of so tepid and feeble a character as to seem to endorse his condemnation. From Lord John Russell, alone of that ministry did Durham receive cordial support. Russell warmly defended Durham's administration in Canada as "wise and statesmanlike." Durham himself wrote to Lord John: "I do not conceal from you that my feelings have been deeply wounded by the conduct of the Ministry. From you and you alone of them all have I received any cordial support."<sup>4</sup> If the debates on Durham's government in Canada had begun in the House of Commons instead of in the House of Lords, the subsequent history of this critical period might have been very different. As it was, however, Melbourne assented to a Bill, introduced by Brougham, indemnifying those who had been exiled under the ordinance, and then formally disallowed the ordinance itself.<sup>5</sup>

For this base desertion of their agent in Canada, the Ministry was generally blamed in England.<sup>6</sup> *The Times*, hitherto so

he immediately rose to success. In 1811 he became private adviser to the Princess of Wales, and he later defended her in her case against George IV, which made his name at the Bar. Brougham took an active part in the Grey Ministry, but he quarrelled with his Whig colleagues, and, after 1835, they decided not to offer him another official position. Hence arose, partly, his great opposition to Lord Durham and Lord Melbourne. For more than thirty years Brougham took an active part in political life, and exercised a very considerable influence over his contemporaries, but he never attained the position for which he had hoped. He was, however, a great orator and an eminent statesman. He died in 1868.

<sup>1</sup> Cf p 74, footnote 2

"Brougham is evidently all astray as to Lord Durham in Canada, misled by a desire to find Durham in the wrong and by a passion for talking on all matters, whether he understands them or not"—John Arthur Roebuck Cf Stuart J Reid, op cit, vol II p 214

<sup>3</sup> "Lord Durham has got into a fine scrape with his Ordinance, which is clearly illegal. Brougham brought it forward on Tuesday night in an exulting speech, or rather in many exulting speeches, one of which contained some eloquent passages. He was transported with joy at having as he said 'got them at last.' The Duke supported Brougham with more temper and dignity, the ministers made but a poor defence, if defence it could be called. Durham's appointments cancelled and his proclamation declared illegal will neither sweeten his temper nor exalt his character in Canada." Cf C Greville *Journal of the Reign of Queen Victoria* (1837-52), vol 1, p 123

<sup>4</sup> The Tory point of view is given in the *Quarterly Review*, vol 63, pp 240-1.

<sup>5</sup> Stuart J Reid, op cit, vol II, p 217

<sup>6</sup> "This is absolutely necessary but very disagreeable, and will be very much so to Lord Durham."—Letter of Lord Melbourne to Queen Victoria, 10 August, 1838 Cf *The Letters of Queen Victoria*, vol 1, p 163

<sup>7</sup> *John Bull*, 19 August, 1838

bitterly opposed to Lord Durham warmly supported him in this affair. Making allowances for the bitterness of party feeling I think the verdict of *The Times* can be taken as the general opinion of the public at home. True to their base and selfish instincts the time serving Whigs in deference to whom the noble earl had at great personal sacrifice placed himself in the van of their Canadian conflict have at the first shot deserted dishonoured and dismissed him. It is in vain to pretend that their conduct towards Lord Durham has been other than we have now described it nor on learning the public affront which they have now put upon him by advising Her Majesty to disallow his proceedings is it possible that his lordship can retain their commission for a single day unless indeed that proud and sensitive spirit hitherto reported as the very model of sensitive honour shall now be so abased by contumely as to submit ignominiously to those freedoms with his character and coronet which formerly he would have perilled his life to prevent.<sup>1</sup> Even Earl Grey one of the leaders of the Whig Party described the conduct of the Ministry as being very shabby and discreditable.<sup>2</sup>

Lord Durham first knew of the debate in the House of Lords from an American newspaper. It came as a crushing and unexpected blow putting an end to many cherished hopes and plans.<sup>3</sup> I never anticipated he wrote to Lord Glenelg in a private letter which accompanied his dispatch of 29 September the possibility of such treatment as I have received. I little expected disavowal and condemnation.<sup>4</sup> The anger and disappointment of the Canadians was intense and Melbourne and Brougham were burned in effigy. At last they had found an English statesman of character and eminence who showed that he understood them and their difficulties but immediately he was disavowed and disgraced by the Imperial Parliament. This was not the first time that English party politics had cast a malignant shadow over the affairs of the colonies.<sup>5</sup>

On recognizing his virtual abandonment by the Home Government, Durham rightly concluded that the necessary condition for the success of his mission had not been fulfilled, and at once decided on resignation. "Lord Durham saw that he could do no good in Canada if the everyday weapon of a faction for making war upon another, its engine for working its adversaries out and itself in, was to be a presumptuous interference with his administration, and he felt that if his friends were not prepared to back him better, they should have looked out for a man who had no enemies"<sup>1</sup> To many in England, who could not fully appreciate the difficulties of Durham's position, it seemed as if he was resigning under the influence of personal pique. "High-minded and energetic; generous at least, and often comprehensive in his views; vigorous and acute in his faculties, Lord Durham sank under the first reverse he was no sooner thwarted than he was utterly disabled, and losing all self-possession, gave way to a childish access of passion from which he did not awaken before he had compromised his own dignity and done much prejudice to the public service"<sup>2</sup> This, however, was far from the truth. He heard of the proceedings in Parliament on 25 September, and he immediately notified the ministers of his resignation. Nevertheless, although he was suffering from a severe illness at the time, he stayed at his post until 1 November, to complete such matters of his administration as he deemed necessary. From the people of Canada, who, of all others were most qualified to form a true opinion of his government, Durham received the most cordial support. The *Montreal Gazette*, which was the organ of the Moderates in the British Party, declared "We cannot conceive how any man of high spirit could submit to the utter degradation of serving a government who had neither the power to support him in the exercise of his public functions, nor the courage to defend him and themselves from the factious insults of party politicians or the more infamous inroads of personal and jealous enemies. A Ministry so utterly weak and incapable as a government, so grossly ignorant of the duties of their station, of their obligations to their sovereign, and of their responsibility to their country, are totally unworthy of being

<sup>1</sup> Article of John Stuart Mill in the *London and Westminster Review* vol 32 p 255

<sup>2</sup> *Annual Register*, 1838 pp 326-7

favoured with the services of any man of honour who values his own reputation. It is therefore, no wonder if the Earl of Durham has resolved upon abandoning the future administration of the affairs of these provinces'.<sup>1</sup> Although his motives were thus appreciated, Durham's resignation filled all patriotic Canadians with despair for the present and dread for the future.<sup>2</sup> 'The declaration of Lord Durham's intended resignation spread terror and grief throughout British North America'.<sup>3</sup> With the Imperial Parliament so blind to the needs of the province they felt there was now no hope for the years to come.

Little expecting such disavowal at home, on his arrival in Canada Durham had set vigorously to improve the conditions of the colonists in every way. Before the end of June, provision had been made for the paving and lighting of the streets of Montreal and Quebec and also for the beginning of an adequate police force for these two cities. He also began the commutation of the antiquated feudal land tenures in Montreal and instituted a general registry of titles to land.<sup>4</sup> In July, he visited Upper Canada where he very favourably impressed both parties. During his short stay there he was convinced that there was great need of extensive economic improvements, especially in the further development of the Welland Canal.

It was one of the greatest merits of Lord Durham's conduct of affairs that he placed British relations with the United States on a more satisfactory footing.<sup>5</sup> Considerable sympathy had been evinced by the citizens of the Republic especially in the region around Buffalo for the leaders of the insurrection.

<sup>1</sup> Stuart J. Reid op cit vol II p 243

<sup>2</sup> 'The blow has fallen on us with a force that appears for the moment to have paralysed all feeling. Men dare hardly ask what is now to be done the most gloomy apprehensions are entertained but we will yet hope needlessly. Our aspect which heaven knows was dark enough before has been rendered more gloomy by the conduct of the ministers in denying their support to the local Government whose measures conceived in a knowledge of the actual state of the colony were framed to meet the exigencies of the dangerous situation in which it was placed. It is clear that had the leaders of the rebellion sent to Bermuda been brought to trial the jury would have acquitted them in face of any evidence no matter how direct and strong as did the jury that acquitted the murderers of Chartrand. —*Quebec Gazette*



Volunteers from the United States had ravaged the border and had enabled William Lyon Mackenzie to make his last stand on Navy Island. Although the president had nominally discountenanced these proceedings, they were nevertheless keenly resented in England and by loyalists in Canada. This sympathy for the rebels, however, had been considerably disarmed by Durham's treatment of the prisoners, which was regarded in a most favourable light in the Republic. Durham further pursued this advantage by sending his brother-in-law, Colonel Grey, on a special mission to Washington which was attended by excellent results and which removed, for a time, the misunderstandings existing between the two Governments. The more friendly disposition of the Government of the United States prevented incidents, such as the burning of a Canadian steamer, the *Sir Robert Peel*, by certain lawless republicans, and various raids against Upper Canada, from possessing political importance.<sup>1</sup>

When Lord Durham first reached Canada, he was enthusiastically in favour of a confederation of all the British provinces in North America. United, the scattered colonies would soon be the equal of the Republic, and would no longer feel so hopelessly inferior. It was not until he came into personal contact with the representatives from the Maritime Provinces that he realized how strong were the objections to the scheme at that time. The opposition was especially strong from Sir John Harvey, the Lieutenant-Governor of New Brunswick. There, the popular party had succeeded in obtaining control of the revenue, and the constitution was now working so smoothly that Harvey did not desire any further change. It was during the visit of these delegates that the news was received which brought about Lord Durham's resignation.

After the departure of the provincial representatives, Durham took the unusual and, in ordinary circumstances, the unconstitutional step of issuing a proclamation.<sup>2</sup> In this document he explained the reasons of his resignation and, in effect, appealed from the action of the Home Government to Canadian public opinion. The motives which led to the publication of this proclamation are clearly stated by Charles Buller. "In this proclamation, Lord Durham had two great objects in view,

<sup>1</sup> Charles Buller, *Sketch of Lord Durham's Mission to Canada in 1838*. Cf. Lord Durham's Report, ed. Lucas, vol. iii, pt. iii, pp. 347-9.

<sup>2</sup> Appendix D.

The first was that of calming the excessive agitation, which his abrupt departure from Canada had occasioned, by showing that he did not despair, and he yet hoped, by immediate and energetic remonstrances at home, to effect that good which he could not secure by remaining in Canada. The second was, certainly that of vindicating himself by the only public means in his power"<sup>1</sup> The proclamation is of great interest and considerable importance. In it Durham explained the main objects of his administration, and also outlined the principles of government which he thought best suited to the needs of the colony. It foreshadowed, to a very large degree, the recommendations of his famous report.

When known in England, this action was generally denounced, and the tide of sympathy for Durham, which had been steadily rising was checked.<sup>2</sup> *The Times*, which had hitherto warmly supported him now fiercely assailed the "Lord High Seditious," as they dubbed him.<sup>3</sup> "We say plainly that this document has given us a worse opinion of Lord Durham than we ever entertained before. Puerile, vain, and petulant, the noble earl has often shown himself but in the present instance we regret to say that the qualities he discloses are of a darker hue."<sup>4</sup> The proclamation was described in the *Annual Register* as 'a most improper manifesto,'<sup>5</sup> while it was denounced in the *Quarterly Review* with violent intensity as "not merely a personal indecency but a political offence."<sup>6</sup> Only the Radicals continued to support Lord Durham.<sup>7</sup> The

<sup>1</sup> Charles Buller *Sketch of Lord Durham's Mission to Canada in 1838* Cf. Lord Durham's Report ed. Lucas vol. III pt. III p. 367.

<sup>2</sup> The stillness of the political atmosphere has been rudely broken in by Lord Durham's astounding proclamation for once the whole of the press has joined in a full chorus of disapprobation and this may be considered conclusive as to public opinion. Indeed there can scarcely be two opinions on the subject for such an appeal to the people of the colony over whom he is placed from the acts of the Government and the Legislature of the Mother Country is as monstrous as it is unexampled.—C. Greville *Journal of the Reign of Queen Victoria (1837-52)* vol. I p. 134.

<sup>3</sup> It is impossible to throw aside this Durham scandal in its present half worn state. The Lord High Seditious has choked the community with indignation. Use reconciles us not in his offence against all decency.—The leading article in *The Times* 8 November 1838.

<sup>4</sup> Leading article in *The Times* 7 November 1838. Cf. also *The Times* 9, 12, 24, 26 and 29 November.

<sup>5</sup> *Annual Register* 1838 p. 322.

<sup>6</sup> *Quarterly Review* vol. 64 p. 465. Cf. also *Quarterly Review* vol. 63 pp. 248-9, 260.

<sup>7</sup> Lord Durham's Proclamation is one of the best drawn up state papers we ever read—a fine manly document and consequently scouted by all parties.—*Weekly Dispatch* 11 November 1838.

most able defence of his action, and which, to some extent, repelled the attack, was written by John Stuart Mill and appeared in the *London and Westminster Review* "The proclamation was the necessary complement and winding up of his short administration—the explanation which was due to the people of Canada for the past, and the best legacy which he could leave to them for the future. So far from being inflammatory, it was in all probability the only kind of address to the people which, in the then state of men's minds, could have had any healing effect. Was it not the best thing since he could not have healing measures to leave healing principles behind him? Next to doing the noble things spoken of in the proclamation, to point them out as fit to be done, was the thing most calculated to restore harmony in the colony then since he could not give them the policy itself he has done wisely and well in giving them the hope of such a policy" <sup>1</sup> William Kingsford the Canadian historian, defends the proclamation on much the same grounds <sup>2</sup> while Charles Buller bears witness to the beneficial effect that it had upon the temper of the colonists <sup>3</sup> /

When Lord Durham returned to England he was warmly welcomed by the Radicals who hoped to form a compact party under his leadership <sup>4</sup> Durham, however, immediately devoted himself to the compilation of his report <sup>5</sup> His stay

in Canada had only lasted five months from 27 May until 1 November so his judgments, so far as they were personal were, of necessity, formed on a very cursory observation. He may thus sometimes have been misled, certainly his forecasts with regard to the future extinction of the French nationality have proved wholly wrong.<sup>1</sup> It must also be remembered that when he returned home he was a failure.<sup>2</sup> Lord Melbourne wrote to Queen Victoria that "any little public reputation which he might once have acquired has been entirely dissipated by the continued folly of his conduct in his Canadian Government."<sup>3</sup> Charles Buller also regretfully states "Thus ended Lord Durham's Mission to Canada and instead of bringing those great results to the country and that harvest of honour and power to himself for which we had hoped and for which we had all laboured it seemed at its close to have ended in nothing but disappointment to all concerned in it."<sup>4</sup> He had failed to please the Home Government and another abortive rising took place in Canada after he had departed.<sup>5</sup> This was a source of great disappointment to Durham and probably shortened his life.<sup>6</sup> Nevertheless it is now recognized that this apparent failure carried with it the seeds of a far wider triumph. Without the combative attitude which had been forced upon him the language of his report would have been couched in less trenchant terms<sup>7</sup> and the interest which it aroused would have been far more ephemeral.

When studying the report<sup>8</sup> the reader is constantly impressed

<sup>1</sup> Cf. Lord Durham's Report ed. Lucas vol. II pp. 288-9. Also pp. 88-94 of this study.

<sup>2</sup> His [i.e. Lord Durham's] administration was but a barren leaf that sprouted in the spring and died without flower or fruit in the autumn and will we think, be forgotten as to its own intrinsic merits before the spring comes round again. Cf. *Quarterly Review* vol. 63 p. 224.

<sup>3</sup> Letter of Lord Melbourne to Queen Victoria 7 May 1839. Cf. *Letters of Queen Victoria* vol. I p. 195.

<sup>4</sup> Charles Buller *Sketch of Lord Durham's Mission to Canada* in 1838. Cf. Lord Durham's Report ed. Lucas vol. III pt. III p. 371.

<sup>5</sup> Lord Durham left Montreal on 1 November and on the 3rd of that month the insurrections broke out again in Lower Canada while in Upper Canada many sympathizers from the United States joined the insurgents there. They were easily defeated at Prescott. This fight cost the Government 45 in wounded and killed, 159 of the opponents (including 131 natives of the United States) were taken and conveyed to Kingston to be tried.

<sup>6</sup> Lord Durham died 28 July 1840.

<sup>7</sup> The report abounds in such sentences as "The English population will never tolerate the French pretensions to nationality" and "The hopeless inferiority of the French Canadian race."

<sup>8</sup> *Lord Durham's Report on the Affairs of British North America* ed. S. & C. P. Lucas in three vols.

with the wide scope and intimate detail of every section Lord Durham deals minutely with the conditions in Upper and Lower Canada, and correctly sums up the chief events leading to the rebellion of 1837. The account of Upper Canada is not so well written as that of the Lower Province, but, even so, it gives a vivid and comprehensive survey of conditions at that time. A short section is devoted to the Maritime Provinces, but it is much slighter in its treatment even than the account of Upper Canada, and does not pretend to be anything but a mere sketch. The account of Lower Canada is, however, most ably worked out in detail, and the author's well-reasoned deductions are largely applicable to the other provinces. Lord Durham did not limit himself to the consideration of political affairs. One of the most searching and brilliant sections of the report deals with such economic questions as the granting of land, the control of immigration, and the improvement of communications and other public works.

Although this earlier part is most interesting and instructive, the most vital and important section of the report for to-day and for all time lies in his two main recommendations for the future government of British dependencies. The first and most important is that he strongly advocates a full grant of responsible government. This phrase although very familiar, is vague and easily liable to be misconstrued, as indeed, it was in later years.<sup>1</sup> Lord Durham, however, makes his meaning quite clear. Representative government had already been established<sup>2</sup> and the experiment of depriving the people of their constitutional power<sup>3</sup> could not be indefinitely continued. "To conduct their government harmoniously, in accordance with its established principles is now the business of its rulers and I know not how it is possible to secure that harmony in any other way than by administering the government on those principles which have been found perfectly efficacious in Great Britain"<sup>4</sup>. Durham, therefore, meant a political system in which the Executive is directly and immediately responsible to the Legislature, and in which the ministers are members of the Legislature, being chosen from the party which commands the majority of the elected representatives of the

<sup>1</sup> Cf pp 104 seq 146

<sup>2</sup> The Constitutional Act of 1791 Cf pp 26-8

<sup>3</sup> Cf p 74

<sup>4</sup> Lord Durham's Report vol II p 278

people<sup>1</sup> "I admit that the system which I propose would, in fact, place the internal government of the colony in the hands of the colonists themselves, and that we should thus leave to them the execution of the laws, of which we have long entrusted the making solely to them"<sup>2</sup>

Lord Durham, however, strongly advocated a necessary preliminary to the grant of responsible government—that is the union of Upper and Lower Canada. The form of reunion which he advocated was not federal, but a complete amalgamation of races, languages, and laws. This recommendation shows a considerable change in Durham's ideas. He had come to Canada as a Radical, believing that the cause of the French Canadians was that of liberalism. When he found them stationary, stagnant, and rigidly conservative, his enthusiasm cooled, and he turned to measures that would undermine their nationality.<sup>3</sup> Moreover, he was impressed by the fact that the British, whom he had previously identified with the narrow oligarchy at their head, out of disgust with the Government, might be driven into the arms of the United States. Yet, under the surface, he could detect a strong undercurrent of an exactly contrary feeling. The illiberalism of the French, and the necessity, on imperial grounds, of conciliating the British, decided his course. He was determined to entrust the internal government of Canada to the will of the majority of the people, but he felt there was only one way to secure safety and stability, and that was by ensuring that the majority should be British. "It is only by the same means—by a popular government, in which an English majority shall permanently predominate, that Lower Canada, if a remedy for its disorders be not too long delayed, can be tranquilly ruled. On these grounds I believe that no permanent or efficient remedy can be devised for the disorders of Lower Canada except a fusion of the Government in that of one or more of the surrounding provinces."<sup>4</sup>

<sup>1</sup> Lord Durham's Report, vol. II 278-80

<sup>2</sup> *Ibid* p. 181

<sup>3</sup> But I repeat that the alterations of the character of the province ought to be immediately entered on and firmly, though cautiously followed up that in any plan which may be adopted for the future management of Lower Canada the first object ought to be that of making it an English province and that, with this end in view the ascendancy should never again be placed in any hands but those of an English population.—Lord Durham's Report vol. II p. 296

<sup>4</sup> *Ibid* pp. 303-4

The union of the two provinces was not recommended solely as the basis for the grant of self government. The slowly moving habitant would find his position economically improved through a close partnership with the progressive British settlers, while the Upper Canadians would gain by obtaining direct access to the sea. Moreover, the union of the small British colonies would help in some way to combat the increasing influence of the United States which was felt in every walk of life.<sup>1</sup> The Canadian feeling of inferiority would be dispelled by "raising up for the North American colonist some nationality of his own."<sup>2</sup> When Lord Durham came to Canada he was in favour of a general federation of all the British colonies in North America,<sup>3</sup> but such a scheme required long and patient handling owing to the opposition of the Maritime Provinces,<sup>4</sup> whereas the work in hand must needs be speedily completed. Moreover, the lack of good communications greatly added to the difficulties of such a federation. A wilderness of several hundred miles lay between the Maritime Provinces and Quebec. The union of the two Canadas would, however, prepare the way for a complete federation of all the British North American provinces. "By creating high prizes in a general and responsible government, we shall immediately afford the means of pacifying the turbulent ambitions, and of employing in worthy and noble occupations the talents which are now only exerted to foment disorder. A general Legislative Union would elevate and gratify the hopes of able and aspiring men. They would no longer look with envy and wonder at the great arena of the bordering federation, but see the means of satisfying every legitimate ambition in the high offices of the Judicature and Executive Government of their own Union."<sup>5</sup>

In the last pages of the report, Lord Durham sums up his

<sup>1</sup> But the influence of the United States surrounds him on every side and is ever present. It extends itself as population augments and intercourse increases. It penetrates every portion of the continent into which the restless spirit of American speculation impels the settler or trader. It is felt in all the transactions of commerce from the important operations of the monetary system down to the minor details of ordinary traffic. It stamps on all the habits and opinions of the surrounding countries the common characteristics of the thoughts, feelings and customs of the American people. Such is necessarily the influence which a great nation exercises on the small communities which surround it. —Lord Durham's Report, vol. II p. 31.

<sup>2</sup> Lord Durham's Report vol. II p. 311.

<sup>3</sup> Cf. pp. 83-87.

<sup>4</sup> Cf. *Ibid.*

<sup>5</sup> Lord Durham's Report vol. II pp. 312-13.

recommendations and gives an outline of the constitution which he proposed for Canada. The two provinces of Upper and Lower Canada were to be united under one Legislature and, in the Bill which was to be introduced into the Imperial Parliament for this purpose, provision should be made for the voluntary admission of the other North American provinces into the union at a later date.<sup>1</sup> A parliamentary commission was to be appointed to mark out electoral divisions and to give representation as nearly as possible in proportion to population. Lord Durham was strongly averse from giving an equal number of representatives to Upper and Lower Canada.<sup>2</sup> "A general executive on an improved principle"<sup>3</sup> should be established and this was linked with a recommendation that a Supreme Court of Appeal should be established for all the British North American colonies.<sup>4</sup> The constitution of the Legislative Council should be revised by the Imperial Parliament so as to enable it "to act as a useful check on the popular branch of the Legislature,"<sup>5</sup> and at the same time "to prevent a repetition of those collisions which have already caused such dangerous irritation."<sup>6</sup> Durham's handling of this question, alone, is unsatisfactory. He expresses a definite desire to improve its constitution, and yet he specifies no definite changes. The entire control of public lands was to be retained by the Imperial Parliament, but the control of all other sources of revenue should at once be given to the United Legislature, when an adequate and permanent civil list had been granted. No money votes were, in future, to be proposed without the consent of the Crown that is, the responsible advisers. The independence of the judges was to be secured by giving them the same tenure of office as in England.

While proposing to grant to the Colonial Executive the full management of all local concerns, Durham recognized that there were certain subjects which were the peculiar province of the Imperial Parliament. "The constitution of the form of

<sup>1</sup> No such provision was made in the Act of Union passed in 1840 but the final clauses of the British North America Act of 1867 provided for the admission of the other North American colonies into the confederation in the future.

<sup>2</sup> Cf. Lord Durham's Report vol. II p. 324.

<sup>3</sup> Ibid. p. 325.

<sup>4</sup> This was not granted until 1875.

<sup>5</sup> Lord Durham's Report vol. II pp. 326-7.

<sup>6</sup> Ibid. pp. 326-7.



governed.<sup>1</sup> This utilitarian doctrine together with the broad ideas of liberty and self government derived from Fox seems to have influenced Durham most and to have lain at the root of his plan for regulating the future colonial system of Great Britain.

The Report on the Affairs of British North America was presented to the House of Commons on 11 February 1839.<sup>2</sup> Immediately it created a deep but by no means favourable impression. Many of the contemporary newspapers and periodicals contain the most vehement and to us strange denunciations of this most able report. The *Quarterly Review*<sup>3</sup> was one of the most violent in its condemnation of a trumpet report which few will read—fewer understand—nobody approve.<sup>4</sup> Lord Durham's Report and the scheme which it proposes must be utterly rejected. Its pompous absurdities its puerile pedantry—its distorted facts—its false reasoning—and its monstrous inconsistencies are so flagrant as hardly to require any additional exposure.<sup>5</sup> Curiously blind to the true facts in conclusion this journal declared that every uncontradicted assertion of that volume will be made the excuse of future rebellions—every unquestioned principle will be hereafter perverted into a gospel of treason and that if that rank and infectious Report does not receive the high marked and energetic discountenance and indignation of the Imperial Crown and Parliament British America is lost.<sup>6</sup> This attack was not limited to the Tory journals but was reinforced by those which usually advocated more liberal views. Our belief is that his lordship looks upon Constitution making as an agreeable gentlemanly pastime as he did upon the dictating as very pretty fun. The toy however has been an expensive one and the passerby will long have pointed out to him—Durham's Folly.<sup>7</sup> The

<sup>1</sup> All the colonial reformers were influenced by the utilitarian theory Charles Buller shows this influence in his book *Responsible Government for the Colonies*—But worst of all the Mother Country's faults is his necessary subjection to sinister interests and cabals. (p. 155)

<sup>2</sup> Lord John Russell presented by Her Majesty's Command—Copies or Extracts of Correspondence relative to the Affairs of British North America Report on the Affairs of British North America from the Earl of Durham Her Majesty's High Commissioner with Appendix A.—*Journals of the House of Commons* vol. 94 p. 19. Lunae 11 de Februarii

<sup>3</sup> *Quarterly Review* vol. 63 p. 506 seq. vol. 64 p. 483 seq.

<sup>4</sup> *Ibid.* vol. 63 p. 524

<sup>5</sup> *Ibid.* p. 505

<sup>6</sup> *Ibid.* p. 525

<sup>7</sup> John Bull 20 September 1839

*Times* also exultantly joined in the general cry of condemnation<sup>1</sup>. There is nothing in any of these published papers more offensive than the soft palliative extenuating tone adopted by Lord Durham towards the disaffected in Upper Canada nor anything more monstrously absurd and purblind than his twaddle about making the public functionaries appointed by the crown of England to govern the colonies and retain them under the dominion of the Empire responsible to colonial assemblies<sup>2</sup>. Moreover a series of cleverly written letters signed A Colonist<sup>3</sup> which had some influence on public opinion were also published in *The Times*. Your Lordship talks of a government of the colonies responsible to the people of the colonies and of a governor ruling by the heads of departments amenable to the Legislature. However this theory may apply to Great Britain it is sheer nonsense as regards a dependent state. Your Lordship has lost sight of the incidents of colonial dependence. When your Lordship therefore talks of an officer ruling a province by the means of responsible heads of departments you speak of a state of things so inapplicable to a colony that it is perfectly unintelligible<sup>4</sup>. Only the Radical newspapers offered favourable criticisms of the report. Lord Durham's papers are at length before the public and documents of greater national utility were never produced. The daily papers wish to turn them to party purposes but they will effect a conviction upon the people far beyond any manoeuvres of faction in the Houses of Parliament. His Lordship has pointed out the only course by which the Canadians can be reconciled to any connection with the Mother Country and which we need not say is precisely the only course which the Mother Country will never adopt.

It is impossible for the people to estimate too highly the moral courage and mental dignity of a man that can set forth facts even in the teeth of a Government<sup>5</sup>. Charles Buller interestingly sums up the general reception which the report received. It has been condemned by Tories whose narrow and slavish motives its free principles of government could not but shock. It has been condemned by those whose

<sup>1</sup> *The Times* 13 18 and 20 February 1839

<sup>2</sup> *The Times* 20 February 1839

<sup>3</sup> In his very able manual *Self-Government in Canada* F. Bradshaw has identified the author of these letters with Judge Haliburton a Nova Scotian loyalist

<sup>4</sup> Letter V signed A Colonist Cf *The Times* 22 February 1839

<sup>5</sup> *Weekly Despatch* 17 February 1839

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<sup>6</sup> *Ibid.* p. 525

<sup>7</sup> *John Bull* 20 September 1839

*Times*, also, exultantly joined in the general cry of condemnation.<sup>1</sup> "There is nothing in any of these published papers more offensive than the soft palliative, extenuating tone adopted by Lord Durham towards the disaffected in Upper Canada, nor anything more monstrously absurd and purblind than his twaddle about making the public functionaries, appointed by the crown of England to govern the colonies, and retain them under the dominion of the Empire, responsible to colonial assemblies."<sup>2</sup> Moreover, a series of cleverly written letters, signed "A Colonist,"<sup>3</sup> which had some influence on public opinion, were also published in *The Times*. "Your Lordship talks of a government of the colonies responsible to the people of the colonies, and of a governor ruling by the heads of departments amenable to the Legislature. However this theory may apply to Great Britain, it is sheer nonsense as regards a dependent state. Your Lordship has lost sight of the incidents of colonial dependence. . . . When your Lordship, therefore, talks of an officer ruling a province by the means of responsible heads of departments, you speak of a state of things so inapplicable to a colony that it is perfectly unintelligible."<sup>4</sup> Only the Radical newspapers offered favourable criticisms of the report. "Lord Durham's papers are at length before the public, and documents of greater national utility were never produced. The daily papers wish to turn them to party purposes, but they will effect a conviction upon the people far beyond any manoeuvres of faction in the Houses of Parliament. . . . His Lordship has pointed out the only course by which the Canadians can be reconciled to any connection with the Mother Country, and which, we need not say, is precisely the only course which the Mother Country will never adopt. . . . It is impossible for the people to estimate too highly the moral courage and mental dignity of a man that can set forth facts even in the teeth of a Government."<sup>5</sup> Charles Buller interestingly sums up the general reception which the report received. "It has been condemned by Tories whose narrow and slavish motives, its free principles of government, could not but shock. It has been condemned by those whose

<sup>1</sup> *The Times*, 13, 18, and 20 February, 1839

<sup>2</sup> *The Times*, 20 February, 1839

<sup>3</sup> In his very able manual, *Self-Government in Canada*, F. Bradshaw has identified the author of these letters with Judge Haliburton, a Nova Scotian loyalist

<sup>4</sup> Letter V, signed "A Colonist" Cf. *The Times*, 22 February, 1839.

<sup>5</sup> *Weekly Dispatch*, 17 February, 1839

attachment to the routine of our colonial policy has been revolted by the startling recommendation of a generous confidence in the good sense of the people of the colonies. It has given great offence to those ministers whose whole recent system of colonial policy it showed to have been shallow and unsound.

We may console ourselves that the public at large, while admitting the truth of Durham's views, have not shrunk from them as dangerous on that account. Even amid the universal indifference with which colonies are regarded here, the public in this country have generally and highly approved of the Report.<sup>1</sup>

These criticisms of Lord Durham's Report, although, in so many cases quite erroneous are nevertheless very interesting. Not only do they illustrate the general attitude towards the colonies but also enable the present day reader to realize, to some extent the magnitude of the change which Durham was proposing. The necessity of his recommendations is now recognized and to day criticism of the report is directed against quite different points. His ruthless condemnation of the French Canadians<sup>2</sup> is strongly to be deplored, and it rankled in the minds of the habitants for many years making them suspicious of all the actions of the Imperial Parliament. It was only after the administration of Lord Elgin that their confidence in Great Britain was somewhat restored.<sup>3</sup> Moreover Durham's plan of a complete line of division between the sphere of influence of the Mother Country and that of the colony has proved entirely impracticable. Once the full grant of self government had been made, the colonists gradually assumed direction of all matters appertaining to them leaving Great Britain a mere nominal sovereignty.<sup>4</sup> It is also disappointing that Durham does not appear to have visualized a federation of all British North America from sea to sea. His gaze was entirely limited to a union even at a future date of just those provinces bordering on the Atlantic Ocean. The great North West he entirely ignored.

<sup>1</sup> Charles Buller *Sketch of Lord Durham's Mission to Canada in 1838* Cf. Lord Durham's Report ed. Lucas vol. III pt III, pp 374-5

<sup>2</sup> Without effecting the change so rapidly or so roughly as to shock the feelings and trample on the welfare of the existing generation it must hence forth be the first and steady purpose of the British Government to establish an English population with English laws and language in this Province and to trust its government to none but a decidedly English Legislature

—Lord Durham's Report ed. Lucas vol II pp 288-9

<sup>3</sup> Cf pp 164-6

<sup>4</sup> Cf pp 184 seq

These defects, however, by no means touch the fundamental truths of the report which will always live as the basis of the Empire of to-day. It is all the more remarkable that Durham did not originate any of his recommendations. A reunion of the two provinces had been suggested as early as 1814 by the Duke of Kent<sup>1</sup> (Queen Victoria's father) while in 1822 it would have been carried out but for the protests of the inhabitants<sup>2</sup>. Responsible government had been long demanded in the colonies,<sup>3</sup> and advocated for many years by the Wakefield Reformers<sup>4</sup>. The value of the report lies in the manner of its presentation in the broad and statesmanlike attitude in which these most intricate problems of colonial administration are regarded. It is the supreme achievement of Lord Durham that he brought these measures formerly looked upon as merely the wild and impossible ideas of hare-brained demagogues, into the realm of practical politics. These principles hitherto unrecognized have since guided the colonial policy of Great Britain.

No summary however able as it may be can suggest to the reader the charm and brilliance of this report. Unlike so many state papers it presents an interesting and vivid narrative which flows along in easy yet stately prose. Moreover from beginning to end there runs like a golden thread a healthy and idealistic imperialism. The well being of the colonies and the security of the Mother Country<sup>5</sup> are ever linked together as inseparable. Lord Durham desired that the colonies should grow into strong wealthy and self governing communities. Such a development he was convinced would strengthen the present bond of feelings and interests and that the connection would only become more durable and advantageous by having more of equality of freedom and of local independence<sup>6</sup>. His vision however was not limited to the needs of the colonies. He regarded the Empire as a whole. He realized that the country which has founded and maintained these colonies at a vast expense of blood and treasure may justly expect its compensation in turning their unappropriated resources to the account of its own

redundant population <sup>1</sup> In the same spirit he declared that the public lands of the colonies were intended to promote the common advantage of the colonies and of the Mother Country <sup>2</sup> This comprehensive view of Greater Britain so strange in the age in which he lived glows brightly amid the gloomy and pessimistic views of his colleagues <sup>3</sup> a beacon of hope and guidance for the future It was the supreme good fortune of Great Britain that at this critical period in the history of the Empire the course to be pursued was pointed out by a statesman who was actuated by the desire to perpetuate and strengthen the connection between this Empire and the North American Colonies which would then form one of the brightest ornaments in Your Majesty's Imperial Crown <sup>4</sup>

<sup>1</sup> Lord Durham's Report ed Lucas vol 1 p 13

<sup>2</sup> *Ib id* p 327

<sup>3</sup> Cf pp 11 seq

<sup>4</sup> Lord Durham's Report ed Lucas vol II p 333

## CHAPTER IV

### THE ADMINISTRATION OF LORD SYDENHAM

LORD DURHAM'S Report had sketched in bold outlines, the measures necessary for the future governance of the Canadas, but in a manner very unpalatable to most British statesmen. Only the Radicals were willing to carry into the realm of practical politics the recommendations which it contained. At that moment Lord John Russell was presiding over the Colonial Office. This eminent statesman had ever been a friend of Durham and had faithfully supported his conduct of affairs in Canada. He did not share the ideals of Gibbon Wakefield and his disciples but, nevertheless, his views upon colonial administration were broad and generous<sup>1</sup>. Moreover, Russell sternly repudiated the suggestion of abandoning the colonies and showed a firm determination to maintain the Empire in its full integrity. In those gloomy days following the rebellions of 1837, he declared "I do believe that the possession of our colonies tends materially to the prosperity of this empire. On the preservation of our colonies depends the continuance of our commercial marine, and on our commercial marine mainly depends our naval power, and on our naval power depends the strength and supremacy of our arms. I think then I may say, without arguing the question further, that it is our policy as well as but fairness and justice to our fellow subjects that we should not think of abandoning those provinces".<sup>2</sup>

After reading the report, "from a consideration both of the evils and of the remedy,"<sup>3</sup> Lord John was convinced that a union of the two Canadian provinces was an immediate necessity and a Bill to this effect was introduced into the House of Commons in 1839. In view, however, of the strong protest

<sup>1</sup> I think that what was proposed by Mr Fox at the time of establishing a constitution in Canada would have given a better prospect of permanent tranquillity than the constitution which was then adopted. —Lord John Russell in the House of Commons 16 January 1838. Cf. Hansard *Parliamentary Debates* 1838 (Third Series) vol. xl p. 11.

<sup>2</sup> Hansard op. cit. 1838 vol. xl p. 34.

<sup>3</sup> Ibid. vol. xlvii p. 1264.



from the Legislature of Upper Canada<sup>1</sup> it was decided to postpone its passage through Parliament until the details of the subject had been reported upon by a new governor general. Upon that tantalizing question of responsible government Lord John still tenaciously clung to the old ideas he had expressed in 1837.<sup>2</sup> As late as 16 January 1838 he declared that in a colony if the Legislative Council are to be named according to the will of the Assembly there is another question which arises namely what is to become of the orders given by the Imperial Government and the governor of the colony? You are here placed in the situation that your authority is completely set aside.<sup>3</sup> He does not however seem quite so completely confident in the correctness of this view as he had been before and there is an apparent desire to say nothing whatever about the whole problem in the hope that it would quietly die down. On other matters however he is most explicit and his instructions to the new governor general show a comprehensive and sympathetic policy. The chief points are a legislative union of the two provinces—a just regard to the claims of either province in adjusting the terms of the union—the maintenance of the three estates of the Provincial Legislature—the settlement of a permanent civil list for securing the independence of the judges and to the executive government that freedom of action which is necessary for the public good—and the establishment of a system of local government by representative bodies freely elected in the various cities and rural districts.<sup>4</sup>

The duty of carrying out these instructions was assigned to Mr Charles Poulett Thomson afterwards Lord Sydenham.<sup>5</sup>

<sup>1</sup> The Report of the Committee of the Legislative Council of Upper Canada on Lord Durham's Report Cf W P M Kennedy *Documents of the Canadian Constitution* (1759-1915) pp 470-8

<sup>2</sup> Cf p 44

<sup>3</sup> Hansard 1838 vol xl p 26

<sup>4</sup> Lord John Russell to Charles Poulett Thomson 7 September 1839 Cf W P M Kennedy *op cit* p 516

<sup>5</sup> Charles Edward Poulett Thomson the son of a London merchant was born in 1799. After some years spent in his father's business in Russia and London he was returned to the House of Commons for Dover in 1826. In 1830 he joined Lord Grey's Ministry as Vice President of the Board of Trade and Treasurer of the Navy. A Free Trader and an expert in financial matters he was elected M.P. for Manchester in 1832 a seat which he occupied for many years. He had therefore extensive parliamentary experience which was of the greatest assistance to him in Canada. He was also continuously occupied in negotiations concerning international commerce so that his appointment was the cause of much rejoicing among the mercantile community of Canada.

This appointment occasioned considerable surprise,<sup>1</sup> and as Lord Normanby, the former Colonial Secretary, declared, it was entirely "John Russell's doing that he was bent upon it and had carried it"<sup>2</sup> Many feared he had not the necessary qualities of character for this difficult and important position, and Charles Greville describes him as 'good-humoured pleasing, and intelligent, but the greatest coxcomb I ever saw and the vainest dog though his vanity is not offensive or arrogant' "<sup>3</sup> Others feared his liberal tendencies,<sup>4</sup> and *The Times* went as far as to declare 'Let all interested in property in Canada look to themselves, for with Poulett Thomson as Governor General and Lord John Russell at the Colonial Office, their possessions are not worth twelve months purchase' "<sup>5</sup> These comments furnish a supreme example of how entirely wrong public opinion can often be for Poulett Thomson proved to be endowed with every quality necessary to meet the trials incident to a period of transition In his character, great qualities of tact and judgment in determining the course to be pursued were combined with firmness and decision in execution Liberal in his politics and the friend of Lord Durham and Charles Buller, he fully understood the colonial problem and was capable of every exertion to secure peace and prosperity for the province over which he was to rule When his short administration came to an end Charles Greville admitted how wrong had been the previous adverse criticisms 'Sydenham turns out to have been a man of first-rate capacity, with great ability, discrimination, judgment, firmness, and dexterity His whole administration in Canada fully justified the choice which Lord John Russell made of him and the

<sup>1</sup> Poulett Thomson is clever and industrious but his elevation when compared with that of others and with his own merit as well as original means of raising himself exhibits a very remarkable phenomenon and as Lord Spencer his early patron has pretty well withdrawn from affairs it is not very obvious how or why Poulett Thomson is enabled to render his small pretensions so largely available —Charles Greville *Journal of the Reign of Queen Victoria* (1837-52) vol 1 p 235 5 August 1839

<sup>2</sup> C Greville *Journal of the Reign of Queen Victoria* (1837-52) vol 1 p 236 4 September 1839

<sup>3</sup> C Greville *Journals of the Reigns of George IV and William IV* vol iii p 330 January 1836

<sup>4</sup> A petition from the Merchants Manufacturers Shipowners and others of the City of Glasgow against Poulett Thomson going to Canada It is with deep regret and alarm that we learn the appointment by your Majesty of the Rt Hon C P Thomson to be your Majesty's representative in the colonies Cf *The Times* 12 September 1839

<sup>5</sup> *The Times* 5 September 1839

confidence reposed in him. It is to the credit of Lord John Russell that he discovered and appreciated the talents of a man who was underrated here; but occasions and circumstances draw out the latent resources of vigorous minds. He was always known to be a man of extraordinary industry, but nobody knew that he had such knowledge of human nature and such a power of acquiring influence over others as he evinced when he went to Canada."<sup>1</sup> Lord John described the position as offering the widest scope for doing good that any statesman could possibly desire, and it was in this high spirit that Poulett Thomson undertook the arduous duties of Governor-General of Canada.<sup>2</sup>

In the pursuit of this noble ideal, Thomson was immeasurably aided by receiving the loyal support of the Colonial Secretary.<sup>3</sup> Lord Durham, who gave Thomson all the help he could, bitterly contrasted the difference of their two cases.<sup>4</sup> A perfect confidence existed between Russell and Thomson, and the former allowed his representative in Canada the greatest liberty of action. This loyal co-operation explains, to some extent, Poulett Thomson's great success, and laid the basis of that system which was to preserve two discontented and revolting colonies as happy and loyal members of the British Empire.<sup>5</sup>

The new Governor-General arrived in Montreal on 22 October,

<sup>1</sup> C. Greville *Journal of the Reign of Queen Victoria* (1837-52), vol. II, pp. 118-19.

<sup>2</sup> "Lord Sydenham he believed, had been struck with an observation of his [Lord Russell's] that there was no place where a man could do so much good to a large portion of his fellow-creatures as in the situation of Governor-General of Canada. Lord Sydenham, on that account, accepted that office, and when he got out, devoted his energies to the good of the country"—Lord John Russell *Cf. Hansard*, op. cit., 1844, vol. LXXV, p. 70.

<sup>3</sup> Thomson described Russell as "the noblest man it was ever my good fortune to know." *Cf. G. P. Scrope, Memoir of the Life of Rt. Hon. Charles Lord Sydenham*, p. 252.

<sup>4</sup> "I sincerely rejoice in Thomson's success. Buller will have already told you that I contributed to it to the utmost of my ability. He is a fortunate person in having at the Colonial Office one who has the ability to comprehend this intricate subject and the spirit to support him in his efforts to unravel it"—Letter of Lord Durham to Russell 26 March 1840. *Cf. Stuart J. Reid, Life and Letters of the Earl of Durham*, vol. II, p. 367.

<sup>5</sup> "I think that whoever may succeed you in the Colonial Department will hardly be able to present such a picture, which I have not overcharged and which I certainly do not paint in order to take credit to myself, for I repeat that to you it is due for no one could have been the immediate instrument of producing the change even if he had fifty times the talent or zeal which I can pretend to, if it had not been for your directions and encouragement, and for the assistance which you supplied in England"—Lord Sydenham to Russell, 4 August, 1841. *Cf. G. P. Scrope*, op. cit., p. 240.

1839 His immediate task was to decide upon just conditions of a union of the two provinces and to secure their acceptance. He first tackled the problem in Lower Canada and immediately summoned the Special Council which had acted during the time of Sir John Colborne's dictatorship, previous to the arrival of Lord Durham. He did not make any changes in that Council because he wished to escape the imputation of having created a body especially for the passing of the Union Bill<sup>1</sup>. It was a curious beginning to this new era of popular government that the opinions of the French-Canadians were to be ascertained from a council which in no way represented them, but in the circumstances<sup>2</sup> there was no alternative course. Indeed, Thomson was convinced that, though arbitrary, this form of government was best for the province<sup>3</sup>. The governor-general had little difficulty in persuading this Council to agree to his conditions of union. The great body of the French population still remained sullen and aloof, and although they certainly did not approve of the union, their state appeared too desperate for them to try to prevent its coming into force. The British settlers in Lower Canada were very eager for reunion, as they had been in 1822<sup>4</sup> as the best means of avoiding a French domination. It was therefore, agreed that the United Province should take over the public debt of Upper Canada, and that the details of the Bill should be decided by the Imperial Legislature. Previous experience showed the necessity of a civil list, and that was also promised to the Crown.

Although Lower Canada was so easily won, the consent of the Upper Province had first to be obtained before the union could be carried into effect. There the task proved far more

<sup>1</sup> "I beg your Lordship to remark that the members composing the Special Council remain the same as during the administration of my predecessor. I felt that as the opinions of her Majesty's Government in regard to the Union, are well known it was extremely desirable that I should if possible, submit the consideration of that most important question to a Council in whose selection I had myself had no voice. It appeared to me that to secure due weight in the mother country to the judgement of a body so constituted it was indispensable to avoid even the possibility of an imputation that I had selected for its members those only whose opinions coincided with my own." —Dispatch of C. Poulett Thomson to Lord John, 18 November, 1839. Cf. W. P. M. Kennedy *op cit* p. 525.

<sup>2</sup> Cf. pp. 112-13.

<sup>3</sup> "If it were possible the best thing for Lower Canada would be a despotism for ten years more for in truth the people are not yet fit for the higher class of self government—scarcely, indeed, at present for any description of it." —C. Poulett Thomson to a friend 20 November and 8 December 1839. Cf. G. P. Scrope *op cit* p. 148.

<sup>4</sup> Cf. p. 39.

difficult, because of the implacable opposition of the Family Compact, which had, naturally, no desire to pronounce its own doom. Moreover, great numbers of the loyalist majority had been embittered by Lord Durham's refusal to allow Sir George Arthur, the lieutenant-governor, to gratify their desire for vengeance upon the partakers of the rebellion.<sup>1</sup> Therefore, as late as March 1839 the Upper Canadian Assembly had declared itself opposed to the union unless certain impossible conditions were fulfilled. Thus it was declared indispensable that Lower Canada should only have fifty representatives in the United Legislature, while Upper Canada should have the same number as before, that is, sixty-two, with a faculty of increase. This would have been grossly unfair to the French-Canadians, who were considerably superior in numbers, and would have placed them in a position of political inferiority. Secondly, it was demanded that, after 1845, the elective franchise in the counties should be restricted to those holding their lands in free socage. The effect of this would have been practically to disfranchise the French habitants who still held their lands under the seigniorial system.<sup>2</sup> Thirdly, it was urged that the English language alone should be used in the Legislature, the law courts, and in all public proceedings, and lastly, that the seat of the Government should be in Upper Canada.

Poulett Thomson assumed the government at Toronto on 22 November, 1839 and was at once made aware, by an address from the Corporation of Toronto,<sup>3</sup> of the prevailing temper. It was obvious that the British Government could never consent to give to the French-Canadians that ignominious position designed for them by the United Empire Loyalists. The Upper Canadian Assembly was opened on 3 December, and it was in persuading that House to accept his own conditions of union that Poulett Thomson first displayed those great qualities of tact and personal persuasion which characterized his whole administration and for which he became so justly famous both in England and in Canada. The governor-general proposed that, firstly, there should be equal repre-

<sup>1</sup> Only Samuel Lount and Peter Matthews were executed for participation in the rebellion and Lord Durham was quick to show his disapproval even of these two executions.

<sup>2</sup> Cf. Prof. Munro *The Seigniorial System in Canada*.

<sup>3</sup> The Address presented to C. Poulett Thomson by the Corporation of Toronto 18 November 1839. Cf. Appendix C.

sentation for each province. Such a principle was, at that time, undoubtedly unfavourable to Lower Canada, but it was expected, as afterwards happened,<sup>1</sup> that, with the increasing population which would result from immigration, the inequality would soon right itself. Moreover, the agricultural and commercial enterprise of the British settlers demanded that they should not be placed in a position of inferiority. Secondly, a permanent civil list should be granted, the amount of which should be settled by the Crown. Thirdly, the public debt of Upper Canada, which had been contracted for public works of a general character, should, after the union, be charged to the revenue of the United Province. It was this last provision which caused many to agree to the governor's proposals. The financial position of Upper Canada was most serious, and the province was on the verge of bankruptcy.<sup>2</sup> After protracted deliberations, therefore, Poulett Thomson secured the rejection of the former resolutions<sup>3</sup> and the acceptance of his own conditions of union on 19 December, 1839.<sup>4</sup>

A long and strenuous opposition might well have been expected from the Legislative Council, that stronghold of the Family Compact, but here the governor's task was facilitated by a dispatch from Lord John Russell.<sup>5</sup> This dispatch which warned officials that they had no life tenure of their positions and that their continuance in office would depend on other circumstances than good behaviour, made the Legislative Councillors more amenable to the desires of the governor and

<sup>1</sup> Cf p 182

<sup>2</sup> *Annual Revenue of Upper Canada* . £78 000

*Expenditure*

(i) Interest on the Public Debt £65 000

(ii) Expenses of the Government £55 000

Total £120 000

ANNUAL DEFICIT was therefore . £42 000

<sup>3</sup> Cf p 102

<sup>4</sup> It is impossible to describe to you what I have had to contend with to get this matter settled as it has been in the Assembly. I owe my success altogether to the confidence which the Reform Party have reposed in me personally and to the generous manner in which they have acted by me. A dissolution would have been greatly to their advantage because there is no doubt that they would have had a great majority in the next Assembly.

But they gave up all these considerations.—Dispatch of C. Poulett Thomson to the Colonial Secretary 24 December 1839. Cf G. P. Scrope op cit p 154.

<sup>5</sup> Cf Appendix H. Although important in this connection the dispatch is even more important in connection with the struggle for responsible government. Cf p 106.

of the Imperial Parliament. Therefore they finally agreed to Poulett Thomson's proposals and on 31 December he was at last able to write to the Colonial Secretary: 'The union is carried triumphantly through the Legislatures of both provinces.

It has not been without a prodigious deal of management in which my House of Commons tactics stood me in good stead for I wanted above all things to avoid a dissolution. My ministers vote against me, so I govern through the opposition who are truly Her Majesty's.<sup>1</sup> The British Government fully recognized the value of Poulett Thomson's services and he was raised to the peerage as Baron Sydenham of Sydenham in Kent and of Toronto in Canada.

The Act of Union as passed by the Imperial Parliament<sup>2</sup> followed closely the lines suggested by the governor general. For both provinces there was to be one Legislative Council composed of life members and one Assembly containing an equal number of representatives from each colony. The Speaker of the Council was to be chosen by the governor, but the Speaker of the Assembly was to be elected by the representatives. After providing for the expenses of government, the joint revenue was to be apportioned according to the wishes of the Legislature and existing laws were to remain in force until repealed or amended. English was to be the official language for all public documents but French could be used in debates in the House of Assembly. It is worth noticing that this union as finally carried out, was no thorough fusion of interests and races such as that desired by Lord Durham. Lord Durham had been greatly opposed to equal representation, and would have had the electoral districts of both provinces completely reorganized and merged into each other. Even after a lapse of more than twenty five years the French-Canadian still retained the characteristics of his race and finally both colonies found a wider and happier life in the looser ties of confederation.

Lord Durham's first recommendation had been successfully carried out, and it now remained to be seen how the Imperial Parliament would tackle the second. The proposal to grant to a colony responsible government was at that time, a most extreme, if not revolutionary, suggestion. Previously, all the

<sup>1</sup> Dispatch of C. Poulett Thomson to Lord John Russell 31 December 1839 Cf. G. P. Scrope op cit p 156

<sup>2</sup> 3 and 4 Victoria cap 35 Cf. *Public General Statutes* 1840 pp 186-206

leading British statesmen had united in firmly rejecting it.<sup>1</sup> Expressing the views of the Tory Party, in 1840 the Duke of Wellington declared that "local responsible government and the sovereignty of Great Britain were completely incompatible."<sup>2</sup> As late as 3 June, 1839, Lord John Russell himself voiced the official objections to the proposed system. "It does not appear to me that you can subject the Executive Council of Canada to the responsibility which is fairly demanded of the ministers of the Executive power in this country."<sup>3</sup> Between that time, however, and 14 October of the same year, a mysterious change seems to have altered the trend of Lord John's policy. He did not suddenly embrace the principle of responsible government, but he relaxed his attitude of steady opposition and evinced a strong desire to find some half-way house.<sup>4</sup> Responsible government was still denounced as a vague term, liable to much misinterpretation, and thus "a source of delusion" and "the cause of embarrassment and danger." Yet, on the other hand, Russell declared his willingness to apply to Canada "the practical views of colonial government recommended by Lord Durham." The Executive was to conform to public opinion and be in complete agreement with the popular Assembly, although, in certain cases, "in which the honour of the Crown or the faith of Parliament, or the safety of the State" were involved the governor should obey the orders of the Imperial Parliament alone. These instructions do not seem entirely in harmony with the spirit of Lord Durham's Report, and were, perhaps, intentionally ambiguous but nevertheless they represent a big step forward towards the final goal. This dispatch of 14 October gives the first indication of the great change which was to be effected in the colonial policy of Great Britain within the next ten years.

The views of Lord John Russell closely coincided with those of the governor-general, who was not by any means prepared to go as far as the spirit of the famous report implied. He would willingly have respected the wishes of the Colonial Office and have shelved the whole question, but, in this, he was prevented by circumstances in Canada. On three occasions he was called upon to explain his



controversial problem. The question of responsible government was first raised by the Assembly of Upper Canada just before the close of its last session in February 1840. The governor had no desire to be involved in a lengthy discussion with the representatives of the people at that critical moment, nor did he wish to disturb, further, the already unsettled state of the colony.<sup>1</sup> His answer, therefore, was couched in the most vague and general terms. He stated "that he had received Her Majesty's commands to administer the government of these provinces in accordance with the well understood wishes and interests of the people, and to pay to their feelings, so expressed through their representatives, the deference that is justly due to them."<sup>2</sup> This answer, in conjunction with Lord John Russell's dispatch of 16 October,<sup>3</sup> was gratefully accepted as it conceded the principle of responsible government as far as it was then demanded by the moderate Reformers. In this connection the dispatch of 16 October is of the greatest importance, for it inferred that there would be a change of ministers when the Executive was no longer in sympathy with the majority in the Assembly. Moreover, by making the tenure of offices in the colonies depend on other circumstances than good behaviour, one of the best excuses for withholding from the people the full expression of their wishes was removed. In subsequent administrations the representative of the Crown found himself in a far from comfortable position, and with no easy opportunities for exercising his new freedom of choice.

During his visit to Nova Scotia<sup>4</sup> however, Lord Sydenham expressed himself more fully, doubtless no longer restrained by the necessity of avoiding, at all costs, an angry conflict with an obstinate and tenacious Assembly. Upon this occasion he expressed himself in the following terms: "It is the anxious desire of the Queen that her British North American subjects should be happy and prosperous—that they should enjoy that freedom which is the birthright of Britons and bless the tie which binds them to her Empire. Her commands to her representative are, that he should consult their wishes and feelings—that he should promote their interest by well-

<sup>1</sup> Cf. pp. 110-12.

<sup>2</sup> Cf. Appendix II.

<sup>3</sup> Cf. G. P. Scrope op. cit. p. 163.

<sup>4</sup> Lord Sydenham's visit to Nova Scotia was occasioned by a deadlock between the Government and the Assembly. Sydenham advised the establishment of his system in that colony as a remedy for the lack of co-operation. His advice was accepted by the Imperial Parliament. Cf. p. 110.

considered reforms and suit his administration of affairs to the growing importance and varying circumstances of each colony, that, whilst it should be alike his interest and duty to listen respectfully to the opinions which may be offered to him, and to seek the advice of those who may be considered to represent the well-understood wishes of the people he can devolve the responsibility of his acts on no man, without danger to the connection of the colony with the Empire, and injury to the best interests of those whose welfare is committed to his care"<sup>1</sup>

The third and last expression of Lord Sydenham's views on responsible government was made to the Legislative Council of United Canada. On 3 September, 1841, Robert Baldwin<sup>2</sup> brought forward a series of resolutions on that subject for the consideration of the Council.<sup>3</sup> These proposals fully and clearly advocated the doctrine of colonial self government. Baldwin's views, as expressed on this occasion, were based on two fundamental principles—firstly, on the distinction between imperial and purely local affairs as maintained by Lord Durham and secondly on the necessity for Cabinet responsibility in colonial affairs. The former had never been realized by either Sydenham or Russell, and the latter was impossible in the face of the Colonial Secretary's dispatches of 14 October<sup>4</sup> and 16 October.<sup>5</sup> These resolutions went much farther than the governor or the Imperial Parliament were willing to go at that time and they foreshadowed to a very large degree, the system recognized and established by Lord Elgin.<sup>6</sup> This was the most formidable challenge that Sydenham ever received, and he was quick to answer it. He instructed Mr S. Harrison<sup>7</sup>

<sup>1</sup> Cf. G. P. Scrope op cit p. 259.

<sup>2</sup> Robert Baldwin was the son of William Warren Baldwin, an eminent Reformer, and was born in 1804. He studied law under his father and was called to the Bar of Upper Canada in 1825. In 1829 he was elected to the Legislative Assembly, but in the general elections of 1830 he was defeated, and he did not again sit in the Legislature until after the Union. His ability and high character, however, early won for him general esteem, and in 1836 he was appointed by Sir Francis Bond Head to the Executive Council of Upper Canada. (Cf. p. 68.) After the resignation of this office, he went to England, where he submitted to the Colonial Office a memorandum in which the project of responsible government for Canada was fully developed. In fact, the attainment of this principle was the great object of his whole career. With the section of the Reform Party led by William Lyon Mackenzie, he had no sympathy, and he took no part in the rebellion.

<sup>3</sup> Cf. Appendix I.

<sup>4</sup> Cf. Appendix II.

<sup>5</sup> Cf. W. Stewart Wallace *Dictionary of Canadian Biography*, p. 174.

<sup>6</sup> Cf. Appendix I.

<sup>7</sup> Cf. p. 159 seq.

to amend these resolutions by introducing another series of proposals into the Council. The governor's resolutions were passed unanimously. They maintained

"1 That the Head of the Executive Government of the province being, within the limits of his government, the representative of the sovereign, is responsible to the Imperial authority alone but that, nevertheless, the management of our local affairs can only be conducted by him, by and with the assistance, counsel, and information of subordinate officers in the province

"2 That in order to preserve between the different branches of the Provincial Parliament that harmony which is essential to the peace, welfare, and good government of the province, the chief advisers of the representative of the sovereign, constituting a Provincial Administration under him, ought to be men possessed of the confidence of the representatives of the people, thus affording a guarantee that the well understood wishes and interests of the people which our gracious sovereign has declared shall be the rule of the Provincial Government, will on all occasions be faithfully represented and advocated

"3 That the people of this province have, moreover, a right to expect from such Provincial Administration the exertion of their best endeavours that the Imperial authority, within its constitutional limits, shall be exercised in the manner most consistent with their well-understood wishes and interests "1

These resolutions, being accepted by the Legislative Council, are of the greatest importance in the history of responsible government and formed the basis of all future controversy. Vague, and probably intentionally ambiguous, they very clearly suggest the trend of Sydenham's whole policy, and show the farthest limits to which he was prepared to go. But, in that very ambiguity, which at that time led to unanimity in the Council, lay the seeds of future trouble. On the one hand, they were developed by Sir Charles Bagot to their logical conclusion, and responsible government in its most complete form was introduced into the colony.<sup>2</sup> On the other hand, however, Sir Charles Metcalfe, Bagot's successor, who also based his policy on these resolutions, headed a party of reaction against the Reformers and endeavoured to wipe out "this kind of responsible government "3

<sup>1</sup> Cf G 1' Scope of cit. pp 259-60  
<sup>2</sup> Cf p 138 seq

<sup>3</sup> Cf pp 130-2

These several declarations contain a comprehensive and formal account of Lord Sydenham's policy with regard to this complicated subject. There is no difficulty at all in understanding his views. They arise from two definite and fundamental principles: firstly, that as Her Majesty's representative he was himself responsible to the imperial authority alone, and secondly, that it was also his duty so to form and conduct the government of the colony as to ensure its harmony with the majority in the House of Assembly. He had no intention, however, of allowing the wishes of the people to swamp his own policy and individuality, nor did he accept the principle of responsible government in the sense that it meant the abdication of all the governor's real authority.<sup>1</sup> Indeed, he felt that the maintenance of the power of the governor was a necessary factor in the continuance of the tie with Great Britain. This was based upon the conviction that "either the governor is the sovereign or the minister. If the first, he may have ministers, but he cannot be responsible to the government at home, and all colonial government becomes impossible. He must, therefore, be the minister, in which case he cannot be under the control of the men in the colony."<sup>2</sup> That so profound a thinker as Lord Sydenham should not have realized the double character of a colonial governor, that he is the minister responsible to Great Britain in imperial matters, and that, in purely local concerns, he is a sovereign, with his actions guided by a responsible ministry, shows the great difficulties of this period of transition. Sydenham was not a pioneer in political thought, even in the sense that Wakefield, Buller, and Durham were, but he was a great practical exponent of the best ideas of his age.<sup>3</sup> Thus, he enjoyed the perfect

<sup>1</sup> I have told the people plainly that as I cannot get rid of my responsibility to the Home Government I will place no responsibility on the Council: they are the Council for the Governor to consult and no more. And I have not met anyone who has not at once admitted the absurdity of claiming to put the Council over the head of the Governor. —C. Poulett Thomson to a friend 12 December 1839. Cf. G. P. Scrope, *op. cit.* p. 143.

<sup>2</sup> C. Poulett Thomson to a friend 12 December, 1839. Cf. G. P. Scrope, *op. cit.* p. 143.

<sup>3</sup> It is interesting to note what Sir G. Cornwall Lewis in his excellent book published in 1841 has to say on this subject. If the government of the dominant country substantially governs the dependency the representative body cannot substantially govern it, and conversely: if the dependency be substantially governed by the representative body, it cannot substantially be governed by the government of the dominant country. A self-governing dependency (supposing the dependency not to be virtually independent) is a contradiction in terms. Cf. G. Cornwall Lewis *Government of Dependencies* pp. 295-6.

confidence of the ministry at home, and was able to succeed where a man of more advanced views must necessarily have failed

In practical politics Lord Sydenham, therefore, evolved a system of his own which finds its nearest parallel in the paternal despotism of the Tudors in sixteenth-century England. Like other very able men, he thought he knew what was best for the people better than they did themselves, and, by force of his own character, he devised and forced on to the statute book all the reforms which he felt to be necessary. He was determined to be his own first minister, and by dint of working night and day he was able to keep a tight hold upon the reins of government. He openly declared that he intended to govern as he thought right and not according to other men's fancies, that he would take the moderates from all parties and reject all extreme opinions.<sup>1</sup> By these means Sydenham hoped to create a "middle reforming party" which would loyally co-operate with him in his efforts to restore the colony to prosperity and peace. In spite, however, of the rather arbitrary character of his policy, he clearly saw the futility of trying to govern in opposition to the wishes of the majority. In fact, during his visit to Nova Scotia, in the early part of 1840, he condemned such a course. He advised the Colonial Secretary to withdraw Sir Colin Campbell, who was unable to co-operate with the Assembly, and to send out someone else who would be able to work amicably with the representatives of the people. His advice was accepted, and Lord Falkland was sent in his place to establish Sydenham's system in Nova Scotia.

Lord Sydenham did not wait for the formal proclamation of the union before he began his work of rebuilding the resources of the country. Even in Upper Canada, where the effects of the rebellion were less keenly felt, the existing conditions were

such that they would brook no delay<sup>1</sup> "The state of things is far worse than I had expected. The country is split into factions animated by the most deadly hatred to each other. The people have got into the habit of talking so much of separation that they begin to believe in it. The Constitutional Party is as bad or worse than the other, in spite of their professions of loyalty . . . When I look to the state of the government and to the departmental administration of the province, instead of being surprised at the condition in which I find it, I am only astonished that it has endured so long"<sup>2</sup> The governor fully realized that the future connection of Great Britain and Canada depended upon an immediate solution of the difficulties which had created "the present abominable system of government"<sup>3</sup> If tranquillity was not restored, the history of the previous ten years would most probably be repeated.

In Upper Canada "the great overwhelming grievance" was the question of the clergy reserves,<sup>4</sup> which Lord Sydenham describes as being "the root of all the troubles of the province, the cause of the rebellion—the never-failing watchword at the hustings—the perpetual source of discord, strife, and hatred"<sup>5</sup> All parties were convinced that an immediate settlement was necessary, but none could be agreed upon.<sup>6</sup> Moreover, the union with Lower Canada made the need for a settlement doubly great, because "if you left the question unsettled, you would throw the agitation of it into the Lower Province, where, amongst all its ills, the greatest of all, religious dissension, is

<sup>1</sup> "Every day during which a final and stable settlement is delayed, the condition of the colonies becomes worse the minds of men more exasperated and the success of any scheme of adjustment more precarious —*Lord Durham's Report on the Affairs of British North America* ed Lucas, vol II, p. 10

<sup>2</sup> Letter of Lord Sydenham to a friend Cf G P Scrope op cit pp 148-9

<sup>3</sup> From all that I can hear or see I would not give a year's purchase for our hold of it if some great stroke is not given which shall turn men's thoughts from the channel in which they now run and give a fresh impetus to public works emigration and practical improvement of the country's resources —Lord Sydenham to a friend Cf G P Scrope op cit, p. 150

<sup>4</sup> Cf pp 49 seq 64 seq

hitherto unknown "1 The extreme Church of England party, led by the vigorous Dr. Strachan, demanded their exclusive application to their Church, while the Reformers desired that the proceeds from the sale of the reserves should be devoted to education or public works. The governor-general threw himself into the conflict of opinion with characteristic energy. He realized that the ideals of the former were no longer practical and, at the same time, he opposed the suggestions of the latter because they would have taken away the only fund in the province for religious maintenance, and would never he felt sure have received the approval of the Imperial Parliament. Therefore, in a manner so typical of his whole policy Sydenham devised a scheme of his own, whereby the reserves should be apportioned among the various religious denominations recognized by the law, in accordance with the numbers of their members. A measure to this effect was carried through the Upper Canadian Legislature<sup>2</sup> but it was declared *ultra vires* by the English judges. The Imperial Parliament thereupon passed a similar Bill,<sup>3</sup> whereby the funds arising from the lands already sold, were to be divided in the proportion of two to one between the Churches of England and Scotland but from the proceeds of future sales, one-third was to be given to the Church of England, one sixth to the Church of Scotland and the remainder, at the discretion of the governor in council was to be applied to purposes of public worship and religious instruction in Canada." With characteristic optimism Sydenham described this compromise, which had been carried by the force of his will alone, and which, really pleased no one, as 'worth ten unions and was ten times more difficult.'<sup>4</sup> It allayed the storm for a time, and the problem was finally settled for ever by Lord Elgin.<sup>5</sup>

Before the situation in Lower Canada, however, even the sanguine nature of Lord Sydenham recoiled. The almost unprecedented state of confusion, which reigned in all departments of the Government, can best be ascertained from one of

<sup>1</sup> Cf G P Scrope op cit p 161

<sup>2</sup> My Bill of which I sent you a copy has gone through the Assembly by a considerable majority thirty to twenty. The Council has voted my Bill by fourteen to five.—Private letter of Lord Sydenham Cf G P Scrope op cit, p 161

<sup>3</sup> 3 and 4 Victoria cap 78 Cf *Statutes at Large of the United Kingdom of Great Britain and Ireland* vol 15 pp 458-60

<sup>4</sup> Private letter of Lord Sydenham Cf G P Scrope, op cit, p 161

<sup>5</sup> Cf p 176

his letters "There is no such thing as a political opinion. No man looks to a practical measure of improvement. . . they have only one feeling, hatred of race. The French hate the English and the English hate the French, and every question resolved itself into that and that alone. There is positively no machinery of government. Everything is to be done by the governor and his secretary. There are no heads of departments at all, or none whom one can depend on or even get at. The wise system hitherto adopted has been to stick two men into some office whenever a vacancy occurred, one Frenchman and one Britisher! Thus, we have joint Crown surveyors, joint sheriffs, etc., each opposing the other in everything he attempts." <sup>1</sup> This presents an exact parallel to the picture painted by Lord Durham in his famous report <sup>2</sup> It was this condition of affairs that caused Sydenham to declare that the best thing for Lower Canada would be a despotism for the next ten years <sup>3</sup> This being, of course, impossible, the governor decided that the "only way under these circumstances, in which I can hope to do good, is to wait for the union, in order to get a Government together" <sup>4</sup>

Lord Sydenham was, however, forced by the action of the Imperial Parliament to carry out one very important measure in Lower Canada before the reunion of the provinces took place. The Act for the Union of the Canadas, as originally drafted, had contained clauses for the establishment of municipal institutions, but these were afterwards omitted as being a matter for the local government alone to settle. The governor-general was greatly perturbed because, like Lord Durham, <sup>5</sup> he was convinced "that the capital cause of the misgovernment of them [i.e. the provinces] is to be found in

<sup>1</sup> Letter of Lord Sydenham, 13 March, 1840. Cf G. P. Scrope, op cit., p. 168.

<sup>2</sup> "I expected to find a contest between a government and a people. I found two nations warring in the bosom of a single state. I found a struggle not of principles but of races and I perceived that it would be idle to attempt any amelioration of laws or institutions until we could first succeed in terminating the deadly animosity that now separates the inhabitants of Lower Canada into hostile divisions of French and English." Cf Lord Durham's Report ed. Lucas vol. II p. 15.

<sup>3</sup> Cf G. P. Scrope op cit., p. 148.

<sup>4</sup> Ibid. p. 163. Letter of Lord Sydenham.

<sup>5</sup> "The utter want of municipal institutions giving the people any control over their local affairs may indeed be considered as one of the main causes of the failure of representative government and of the bad administration of the country." — Lord Durham's Report, vol. II p. 113.



this absence of local government and the subsequent exercise by the Assembly of powers wholly inappropriate to its functions "1 The governor general was as anxious as Durham had been 2 that this matter should be settled by the Imperial Parliament, because he was convinced that "no colonial legislature will divest itself of the great power it now possesses of parcelling out sums of money for every petty local job "3 This is of the greatest importance for our subject, because without the establishment of local self government it is hardly probable that responsible government would ever have been established in the colony on a really practical basis Even Sydenham, who had not accepted the doctrine of responsibility in the modern sense realized that 'without a breakwater of this kind between the Central Government and the people, Government with an Assembly is impossible in Lower Canada and most difficult in Upper Canada The establishment of Municipal Government by Act of Parliament is as much a part of the intended scheme of government for the Canadas as the union of the two legislatures and the more important of the two All chance of good government, in Lower Canada especially, depends on its immediate adoption "4 When however he realized that the decision of the Home Government was irrevocable he wasted no more time in futile complaints, but eagerly looked for a remedy With his usual energy and tact, he was successful in carrying a Bill through the Special Council of Lower Canada which accorded a certain measure of local self government The Bill for Upper Canada 5 was allowed to wait until after the union of the two provinces, since the condition of the Upper Province was far superior, in this respect, to the Lower

Finally a proclamation 6 was issued making 10 February, 1841 7 the day upon which the union should formally take place Thereupon, writs were immediately sent out for the elections to the first united House of Assembly The political

1 Cf G P Scrope op cit p 193

2 The plan so formed should be made an act of the Imperial Parliament so as to prevent the general legislature from encroaching on the powers of the local bodies Cf Lord Durham's Report vol II p 324

3 Letter of Lord Sydenham Cf G P Scrope op cit p 193

4 Ibid pp 193-4

5 Cf p 120 of this study

6 Cf *Annual Register* 1841 pp 445 seq

7 That day was chosen because it was the anniversary of the treaty of 1763 which conceded Canada to England and also of the marriage of Queen Victoria.

situation was most difficult and needed very delicate handling. The French Canadians offered a united and unqualified opposition to the union and to the policy of any Government that should carry it through. They had been bitterly alienated by the scathing comments in Lord Durham's Report,<sup>1</sup> and they regarded Lord Sydenham as the practical exponent of his designs. They saw in the union only a blatant attempt to submerge their nationality completely. This conception was most unfortunate, because Sydenham was not opposed to the French in the sense that Durham had been and would have been quite willing to conciliate them if possible. Indeed, he went so far as to send for Louis Hippolyte Lafontaine,<sup>2</sup> the recognized leader of the French-Canadians, and offered him the important position of Solicitor General. In view, however, of the existing suspension of the constitution, Lafontaine did not see fit to accept. This was the governor's first rebuff and, amid his many other duties, he made no further effort to conciliate the French, having made up his mind that they were quite hopeless. As for the French, nothing but time will do anything with them. They hate British rule—British connection—improvement of all kinds, whether in their laws or in their roads, so they will sulk and will try, that is, their leaders, to do all the mischief they can.<sup>3</sup> It was unfortunate that Sydenham took this view, for the French became confirmed in their attitude of consistent, united, and uncompromising opposition to the Government,<sup>4</sup> which

was also embittered by "a strong personal animosity to Lord Sydenham"<sup>1</sup>

On the whole, all the British settlers welcomed the union. It had been accepted in Upper Canada,<sup>2</sup> and it was warmly welcomed by the British of Lower Canada as the best means of escaping a French domination. Since, therefore, all the British population very largely supported the governor's policy—that is, the accomplishment of the union allied to a vigorous reform movement—Sydenham appointed a ministry which was to represent all the English parties in the province, leaving out the French entirely. The nominal head of the Government was Mr. Wilham Draper,<sup>3</sup> a moderate man whose views were decidedly conservative. Robert Baldwin<sup>4</sup> so conspicuous a member of the moderate Reform Party in the struggle for responsible government, was induced to accept the office of Solicitor-General for Upper Canada. His intention was to give a public pledge that he had "reasonably well-grounded confidence that the

Canadians had hitherto offered to the union. This led to the resignation of Baldwin on the day of the opening of the session. The manner of his resignation created much sympathy for the governor, so that the loss of this eminent statesman did not weaken the Government as much as might have been expected. This episode is, however, of the greatest importance in the later history of Canada, as it led to an alliance between Baldwin and Lafontaine, who were then strong enough to give, in the next administration, a practical demonstration of the system of responsible government.<sup>1</sup>

With the political life of the country in this critical and fluctuating condition the elections for the first Assembly of the United Province were fought with great bitterness. The French Canadians put forward every effort, and even formed a society to secure the election of candidates opposed to the union.<sup>2</sup> Their efforts were met by the equal exertions of the English who were led by the astute governor. During these elections Sydenham was accused of lowering himself to every kind of trick to gain a majority in favour of himself that "corruption and intimidation stalked boldly through the land, by a stretch of power the suburbs of the city of Quebec and Montreal were disfranchised and as a consequence, two Sydenham members returned for the latter city without opposition, and a Government officer by a small majority as one of the members for the city of Quebec."<sup>3</sup> These complaints even found their way into the House of Commons, where John Arthur Roebuck made a vigorous protest against such methods.<sup>4</sup> There is no doubt that these complaints were grossly exaggerated,<sup>5</sup> but, nevertheless, they sufficed further to

<sup>1</sup> Cf p 131 seq

<sup>2</sup> Cf G P Scrope op cit p 204 seq

<sup>3</sup> Letter to *The Times* 3 November 1842

<sup>4</sup> The first important act of Lord Sydenham's Government in Canada was to separate the country into districts for the purposes of elections. In doing this he [Mr Roebuck] did not hesitate to say that there was fraud from beginning to end of the proceedings. In many instances polling places were put up in spots which would be most difficult and inconvenient of access. In the case of the town of Montreal a large portion of the town chiefly inhabited by French Canadians was cut off under the denomination of the suburbs. In fact throughout the noble Lord had endeavoured so to fashion and mould the country in regard to the number and character of the constituency that he might secure such a representation as he desired. So gross was the attempt so apparent the fraud in this transaction that the House of Representatives and that very party amongst the Representatives which was intended to be favoured by it declared it was a fraud. —J A Roebuck Cf Hansard vol lxxv p 32

<sup>5</sup> Cf G P Scrope op cit pp 210-16

alienate the French Canadians from the whole policy of the Government.<sup>1</sup> The result of this election<sup>2</sup> was highly satisfactory to Lord Sydenham, although it also foreshadowed the grave danger to which Governments in Canada were for so many years peculiarly exposed. A number of small parties were returned to the House, none of which had a decided majority over the others, and this made the working of party government far more difficult and unstable than if there had been two well defined parties only. But, to Lord Sydenham, who had not accepted the doctrine of responsibility as it is now understood the results appeared a complete success. Out of the eighty four members elected twenty-four could be depended upon as reliable supporters of the Government, while the support of the moderate Reformers could generally be reckoned upon. On the side of the opposition was the solid block of twenty French Canadians usually also supported by the extreme Radicals. The Family Compact Party, in spite of their dislike of the Government usually found it impossible to work with the opposition. Thus, the governor general was able to write exultantly to England "The result has been a complete success. I have got the large majority of the House ready to support me upon any question that can arise and what is better thoroughly convinced that their constituents so far as the whole of Upper Canada and the British part of Lower Canada are concerned will never forgive them if they do not."<sup>3</sup>

It was during the ensuing period of his administration that Lord Sydenham once more displayed those great qualities of tact and parliamentary management which had stood him in

<sup>1</sup> Among others Lafontaine owing to disorder and as he thought Government trickery lost his seat at Terrebonne.

<sup>2</sup> The result of the election was as follows

Government members	24
French members	20
Moderate Reformers	20
Ultra Reformers	5
Family Compact Party	7
Doubtful	6
Special return	1
Doubtful return	1
Total	84

Cf G P Scrope op cit p 217

<sup>3</sup> Lord Sydenham to a friend 27 June 1841 Cf G P Scrope op cit p 233

him at his own feverish pace <sup>1</sup> he was able to pass a series of measures which laid the basis of the final triumph of responsible government

The first and probably most important of these measures was the establishment of a system of municipal government in Upper Canada <sup>2</sup> The Local Government Act of 1841 was of a less democratic character than had been hoped but it was thought impossible to grant to the Upper Province a more popular system than had been accorded to the Lower <sup>3</sup> Therefore councils were established in all districts consisting of a warden appointed by the governor and a body of councillors elected by the ratepayers <sup>4</sup> Sydenham also realized the necessity of great material improvements that without them the province would never be content whatever the system of government He thus put forward a list of public works to which the proceeds of a loan guaranteed by Great Britain might be most usefully applied <sup>5</sup> Other measures of less importance were the establishment of a Board of Works with ample powers the admission of aliens a new system of county courts the regulation of public lands ceded by the Crown under the Union Act <sup>6</sup> The passing of these Bills was of the greatest importance for they laid the foundation of the new prosperity of the province The very fact that so much

I actually breathe eat and drink and sleep on nothing but government and politics and my day is a lost one when I do not find that I have advanced some of these objects materially —Lord Sydenham in a letter to his brother 28 August 1841 Cf C P Scrope op cit p 243

<sup>1</sup> Cf pp 113 14

<sup>2</sup> The last feat has been to carry the Municipal District Bill for Upper Canada word for word after my ordinance for the Lower Province thereby not only giving the complement to the Union (for you know I always declared that without such institutions the Union could not work) but setting up my own particular legislation by the sanction of the United Parliament —Letter of Lord Sydenham to his brother 28 August 1841 Cf G P Scrope op cit p 242

<sup>3</sup> Cf Prof Adam Shortt *Lord Sydenham* pp 324 5

<sup>4</sup> This report represented a comprehensive plan for improving provincial transportation from the Bay of Chaleurs to Lake Huron It provided for the completion of the St Lawrence and Welland Canals the deepening of the St Lawrence below Montreal the opening of the Richelieu River by the Chambly Canal the construction of slides for timber and other necessary works at Ottawa the building of a port and lighthouses on Lake Erie and the establishment and improvement of the main roads between Quebec and Sarnia between Toronto and Lake Huron and between Quebec and the Eastern Townships The total cost was estimated at £1 470 000 sterling It was not intended to undertake all these improvements at once though it was desirable to have a comprehensive plan for the future

<sup>5</sup> Dispatch of Lord Sydenham to Lord John Russell 28 August 1841 Cf G P Scrope op cit pp 242 3

legislation could be forced through the hitherto factious Assembly showed that the people were turning from the morbid political views which they had hitherto held, to the practical means of securing peace and happiness. In exultation, Sydenham wrote "My success has been triumphant, more so than I ever expected or had ventured to hope. I shall leave, I trust, a field which my successor, whoever he may be, cannot mismanage. With a most difficult opening, almost a minority, with passions at boiling heat, and prejudices, such as I never saw, to contend with, I have brought the Assembly by degrees into perfect order, ready to follow wherever I may lead, have carried all my measures, avoided or beaten off all disputed topics, and have got an avowed and recognized majority, capable of doing what they think right, and not to be upset by my successor."<sup>1</sup>

Sydenham might well be thinking of a successor, for he was quickly becoming weaker and weaker.<sup>2</sup> Never a strong man, his health was seriously impaired by the terrific strain of government.<sup>3</sup> At the close of that eventful session Sydenham at last felt his work was done and determined to resign. His formal resignation was dated 25 July 1841, but before he could enjoy a well earned rest, an injury to his leg, caused by a fall from his horse, acting on a weakened constitution brought complications which resulted in his death. He died on 19 September, a few days before he should have started for home. His death following that of Lord Durham, was a severe blow to the interests of the British Empire for their presence in the House of Lords would have added much knowledge and wisdom to the discussions of all colonial problems. But, as far as Canada was concerned, his work was completed. It had been his chief duty to apply to the colony the recommendations of Lord Durham and to inaugurate a new era of colonial government. On his arrival in the province he had found it in a

<sup>1</sup> Lord Sydenham to his brother 28 August 1841. Cf G P Scrope op cit pp 241-3.

<sup>2</sup> Not gout merely but fever and horrible prostration both of mind and body. In fact I have been done by the work and climate united and God knows whether I shall see the other side of the Atlantic again. —Lord Sydenham to a friend 25 May 1841. Cf G P Scrope op cit p 245.

<sup>3</sup> Though of a weak and slender frame and his constitution wretched he made journeys that would have appeared hard to the most robust man. On one occasion he travelled without stopping an immense distance and the moment he got out of his carriage he called for his papers and went at his business as if he had only returned from a drive. Cf Charles Greville *Journal of the Reign of Queen Victoria* (1837-52) vol II, pp 117-18.

most wretched and disorderly condition, and it was obvious that, before any experiments in government could be fairly tried, some semblance of order must be restored. This, Sydenham had quickly recognized, and it was his supreme achievement that, by wise and firm statesmanship, he was able both to pacify the country and, out of the chaotic material at his disposal to produce an orderly procedure of government.<sup>1</sup> The two years of his rule acted like a strong, bracing tonic upon the colonial statesmen, turning their thoughts from quarrels with each other and with Great Britain to a healthy desire to utilize the connection with the Empire for the greater prosperity of both the Mother Country and her dependency.

In the light of subsequent history it is, however, impossible to leave Lord Sydenham's work without a little more searching criticism. He took terrible risks. What would have happened if he had failed? The nearest answer to this question is to be found in the Campbell episode in Nova Scotia.<sup>2</sup> Sydenham would have been willing to depart from Canada in the same manner if he had been unable to shape his policy according to the wishes of the people. On one point in particular he failed conspicuously but fate was kind to him. He embittered the alienation of the French-Canadians and cut them off from all share in the government. Had he remained at the head of affairs much longer he would have found it impossible to continue this policy. His successor, Sir Charles Bagot, was compelled to reverse it entirely.<sup>3</sup> Moreover, there are signs

<sup>1</sup> I think whoever will compare the state of things two years ago with that which exists at present will not venture to affirm that any Secretary of State before ever produced half so great a change. One province then without a constitution under arbitrary power—with scarcely any good laws—with its whole framework both of society and of administration completely disjointed—the other in a state of the greatest excitement and discontent—both without anything approaching to a government or a departmental responsibility. Now the constitution restored to one and greatly improved in both—many most excellent institutions established by law in one and improvements making in the other—the great and harassing questions of Church revenue and responsible government settled—the offices of government arranged so as to ensure responsibility in those who are at their head and an efficient discharge of their duties to the governor and the public—the legislature assembled acting in harmony with the executive and really employed in beneficial and practical measures of legislation—public tranquillity restored and trade and immigration nearly doubled.—Dispatch of Lord Sydenham to Lord John Russell 4 August 1841 Cf G. P. Scrope

op cit pp 239-40

<sup>2</sup> Cf p 110

<sup>3</sup> Cf p 131 seq



that he was overdoing his benevolent despotism. The general disorder of both provinces had previously justified his arbitrary rule but, with the re establishment of internal peace and prosperity, it no longer seemed necessary. It is very doubtful if he could have kept his ministry together or controlled the Assembly even for another session.<sup>1</sup> The truth is, that his system died with him. His successor was forced to take up a new position,<sup>2</sup> and Lord Metcalfe failed in his attempt to return to the Sydenham compromise.<sup>3</sup> The criticism which Lord Elgin passed on him in 1847 is just, and must have been re echoed by many students of history. "I never cease to marvel what study of human nature, or of history, led him to the conclusion that it would be possible to concede to a pushing and enterprising people, unencumbered by an aristocracy and dwelling in the immediate vicinity of the United States, such constitutional privileges as were conferred on Canada at the time of Union and yet, restrict in practice their power of self-government as he proposed."<sup>4</sup>

Recognizing the eminent truth and fairness of this verdict, it is equally true that, after Lord Elgin himself, Lord Sydenham did more than any other to establish responsible government in Canada. He had done his work so well that it led to the breakdown of his own system to make way for more democratic and simpler form of government. Sydenham not only passed the Act of Union, which was a necessary preliminary to any grant of responsible government, but he also, on his own initiative, gave Canada those local institutions through which, alone, a country can grow into disciplined self dependence. The great stumbling-block to co-operation in Upper Canada, the clergy reserves, was for a time, removed, while in Lower Canada economic improvements were gradually showing the way to a new prosperity. Moreover, besides effecting great improvements in the province, the large amount of legislation which Sydenham forced through the Assembly served another

<sup>1</sup> As the Session advanced the supporters of the Government thus weakened were so reduced in number that with all their exertions some of the most important ministerial measures were passed by a bare majority and in one or two cases by the casting vote of the Speaker—and in this posture of affairs the Session closed.—Dispatch of Sir Charles Bagot to Lord Stanley Cf Bell and Morrell op cit p 66

<sup>2</sup> Cf p 132 seq

<sup>3</sup> Cf pp 138 seq 150 seq

<sup>4</sup> Lord Elgin to Earl Grey Cf J L. Monson *British Supremacy and Canadian Self-Government* pp 123-4

and, perhaps even more useful purpose. Previously, Canada had not known any real constitutional organization. The Assembly had seemed like a rustic debating club. Sydenham realized they were not fit to guide themselves but his masterful direction gave them the finest training they could hope to receive. So well did he instruct and train them in the forms of parliamentary procedure that when his guiding hand was removed they were quite ready to stand alone. Sydenham's work laid the foundations and was a necessary preliminary, of any grant of responsible government. Reviewing his administration with all its faults and errors of judgment one can well join with Charles Greville in saying: This is something very like greatness. <sup>1</sup>

<sup>1</sup> This is something very like greatness: these are the materials of which greatness is made—indefatigable industry, great penetration, great powers of persuasion. —C. Greville *Journal of the Reign of Queen Victoria* (1837-52) vol. II pp. 118-19.

## CHAPTER V

### THE TEST

By the vigour of his brilliant personality, Lord Sydenham had safely guided Canada through the most difficult period following the rebellions; but, even so, the ultimate goal of safety and prosperity had not yet been reached. The system which he had innovated, and which had been so marvellously successful, had been based on three main considerations, namely, the eminent capacity of his own industrious and practical mind, the implicit trust placed in him by Lord John Russell, and the disturbed and disorderly state of both provinces, which had, to a very large extent, justified his individual activities. Sydenham thought he was leaving a clear path to his successor, who would, in the best interests of the province, follow where he had led.<sup>1</sup> But, after his death, the situation was considerably altered. Sydenham's successor was faced with a crisis which changed the whole aspect of the Government. To understand how such a great alteration was brought about it is necessary to examine the three fundamental factors which had always determined the course of Canadian history, namely, opinion in England, the personality of the governor, and political conditions in Canada.

The change in England was probably more apparent than elsewhere. In 1841, the Whigs fell from power, and, with the advent of the Tories, under Sir Robert Peel, to office, Lord Stanley<sup>2</sup> became Colonial Secretary in place of Lord John

<sup>1</sup> "What I have seen, however, and had to do in the course of the last three weeks, strengthens my opinion of the absolute necessity of your sending out as my successor some one with House of Commons and Ministerial habits—a person who will not shrink from work and who will govern, as I do, *himself*."—Dispatch of Lord Sydenham. Cf G P Scrope *Memoir of the Life of the Rt Hon Charles Lord Sydenham*, p. 234.

<sup>2</sup> Edward George Stanley, fourteenth Earl of Derby (1799–1869), can hardly be said to have fulfilled the early promise of his youth. He entered Parliament in 1826 and joined Canning's set, with whose views he thoroughly coincided, and accepted the Under-Secretaryship of the Colonies. He retained this position under Lord Goderich, but refused to serve under the Duke of Wellington. During the Reform struggle, Stanley's speeches were brilliant, though he seems hardly to have realized the great change which this Bill was effecting. As Secretary for Ireland in Grey's administration he pursued a vigorous policy, and incurred the hatred of O'Connell owing to his drastic and masterful administration. In 1833 he became Colonial Secretary (cf p. 60), and at once tackled the question of slavery and strongly urged its abolition. But before it was passed he resigned owing to Lord John Russell's declaration

Russell Although, undoubtedly, one of the most brilliant of the younger statesmen of that time he was not, in many respects, well fitted for the position to which he was appointed His views upon colonial policy, to which he clung most tenaciously had not kept pace with the stirring events of the previous five years and were as events proved most impracticable<sup>1</sup> He was willing to acquiesce in certain modifications of the old colonial system, but he was firmly determined never to go as far as Lord Durham's recommendations implied The union of the provinces was accepted as an accomplished fact but all discussions on that tantalizing subject of responsible government were to be assiduously shunned Lord Stanley was determined to maintain the influence of Great Britain which he felt was seriously endangered by the demand for self government, over both the internal and external affairs of the colonies For this reason he was not prepared to give to the governors of the dependencies the free hand that Russell had allowed Sydenham He thought that the authority of Downing Street could still be asserted even in purely local affairs because he refused to believe that there were any real parties in Canada He still held tenaciously to the old idea of a few disloyal factions working for their own ends and for separation from the Empire He desired that the governor should remain as Sydenham had been the real ruler of the province and that to aid him in his task he should draw his officials from the best men of all sections of the community<sup>2</sup>

in favour of the alienation to secular purposes of a portion of the Irish Church revenues For some time after this he voted as an independent member but he inevitably drifted towards the Conservatives He remained in vigorous opposition till he joined Peel's Ministry as Colonial Secretary in 1841 He opposed Peel's policy of Free Trade and played an independent but brilliant part in the House of Lords Asked to form a Government in 1851 he was unable to do so but he succeeded for a short while in 1852 In 1858 he joined a purely Conservative ministry with Disraeli until 1859 In 1867 he was again in office until his retirement in 1868 Derby's reputation as a statesman suffers because he changed sides so often—a Whig a Canningtonite a Whig leader a Conservative He was a man of intense vitality considerable intellect and brilliant wit

<sup>1</sup> Cf. p. 149

<sup>2</sup> You will invite to aid you in your labours for the welfare of the Province all classes of the Inhabitants you will consider it your bounden duty to be accessible to the representations and prepared to listen to the complaints or the statements of the views of all and the only Passports to your favour will be Loyalty to the Queen attachment to the British Connection and an efficient and faithful discharge of Public duty —Instructions of Lord Stanley to Sir Charles Bagot 18 October 1841 Cf. Bell and Morrell *Select Documents on British Colonial Policy* p. 45

Only as a last resort was he to throw himself into the hands of one group, and then it should be that of Sir Allan MacNab<sup>1</sup> and his small group of ultra-Tories. In other matters however, in which the power and influence of the Mother Country were not involved, his instructions were comprehensive and practical. Stanley had no wish to play the tyrant, and he sincerely desired the happiness and prosperity of the colonies. This aspect of his administration is seen most clearly in his instructions to the new governor general who was to take Sydenham's place. You cannot too early and too distinctly give it to be understood that you enter the province with the determination to know no distinctions of national origin or religious creed, to consult in your legislative capacity the happiness and (so far as may be consistent with your duty to your sovereign and your responsibility to her constitutional advisers) the wishes of the mass of the community—and in your executive capacity to administer the laws firmly, moderately and impartially.”<sup>2</sup>

The duty of carrying out the instructions of the Conservative Government fell to the lot of Sir Charles Bagot.<sup>3</sup> The new Governor General had been a follower and admirer of George Canning and had acquired considerable though not

<sup>1</sup> Sir Allan Napier MacNab was born in 1798 and fought in the campaigns of 1813-14. In 1826 he was elected to the Bar of Upper Canada. In 1830 he was elected to the Legislative Assembly and he sat there until the union. From 1837 to 1840 he was Speaker of the Assembly. During the rebellion he commanded the Men of Gore and later led the forces on the frontier. For his great activities in this connection he was made a baronet. From 1841 to 1844 he led the Tory Opposition but from 1844 to 1848 he was again Speaker of the Assembly. From 1848 to 1856 he once more led the Opposition. From 1856 to 1858 he was Prime Minister in the MacNab-Moyn and MacNab-Taché administrations but he resigned in 1856 owing to discontent with his leadership. With him disappears the last trace of the Family Compact. He lived in England for three years but in 1860 he returned to Canada and was elected to the Legislative Council for the Western Division. In 1862 he became Speaker but his health gave way and he died on 8 August 1862.

<sup>2</sup> Instructions of Lord Stanley to Sir Charles Bagot 18 October 1841. Cf. Bell and Morrell op cit p. 45.

<sup>3</sup> Sir Charles Bagot was born on 23 September 1781 and was educated at Rugby and Christ Church Oxford. In 1807 he entered Parliament and became Under Secretary of State for Foreign Affairs in the Conservative administration of the Duke of Portland. In 1818 he was instrumental while British minister at Washington in concluding the Rush-Bagot Treaty which secured the neutralization of the Great Lakes. Later as ambassador at St. Petersburg and The Hague he added to the considerable reputation he had already acquired. In 1841 he was appointed Governor General of Canada, and he remained there until the arrival of Sir Charles Metcalfe in 1843. He was created a Privy Councillor in 1815 and G.C.B. in 1820.

transcendent importance owing to his diplomatic missions to Washington St Petersburg and The Hague His fame however was not such as to warrant his appointment as governor of the most important colony then under British rule<sup>1</sup> It was largely owing to the esteem and favour with which he was regarded in the United States<sup>2</sup> that he was appointed to that high office for until the Ashburton Treaty was signed in 1843<sup>3</sup> relations with the Republic were very strained Although appointed principally to facilitate a peaceful settlement with the United States his great work was concerned with domestic and not international affairs It is characteristic of the supreme good fortune that occasionally smiles upon the British Empire that without previous experience Bagot was able to handle successfully one of the most difficult problems ever tackled by a colonial governor Although not so capable nor so masterful as his predecessor he possessed a far more adaptable mind and singularly alive to the real nature of conditions existing around him he was well fitted to face the crisis which awaited him on his arrival in the province

Within Canada Sydenham's vigorous political training had done its work Those months of continual legislation had given the Assembly a new confidence in its own powers and it was no longer as pliable as it had been in the early months of its existence Indeed towards the end of his administration even Lord Sydenham had found great difficulty in passing his measures This was largely due to the stabilization of the various parties which made the position of the ministry more and more precarious Sydenham had formed his Government from the moderate Reformers and this ministry led by Mr William Draper a Conservative was still in office when Bagot arrived in the province These statesmen had been chosen for their individual ability and not necessarily because

<sup>1</sup> The Queen cannot refrain from saying that she cannot quite approve of Sir Charles Bagot's appointment as from what she has heard of his qualities she does not think that they are of a character quite to suit in the arduous and difficult position in which he will be placed —Letter of Queen Victoria to Sir Robert Peel 9 September 1841 *Letters of Queen Victoria* vol i p 405

<sup>2</sup> This reputation was acquired while Bagot was British ambassador at Washington when he negotiated the Rush Bagot Treaty of 1818

<sup>3</sup> The Ashburton Treaty was negotiated between Great Britain and the United States by Lord Ashburton It settled the boundary dispute between Maine and Canada which had brought the countries to the verge of war The treaty was essentially a compromise and the Canadians have always been dissatisfied with its terms

of their agreement with each other, or popularity in the colony generally<sup>1</sup> Therefore, when Sydenham's strong hand, which had guided them at will, was removed, they fell entirely to pieces, and the most utter confusion reigned in all departments of state This was accompanied by a strengthening of the Opposition After his sudden resignation, on the eve of the opening of the Assembly in the previous administration, Robert Baldwin<sup>2</sup> had joined the French Canadian Party, which was led by Louis Hippolyte Lafontaine<sup>3</sup> Gradually the Reformers of Upper Canada had rallied around Baldwin, so that the allied party was now the largest and most formidable in the colony Except on one great point, this party did not differ essentially from the moderate men assembled by Sydenham, since both were in favour of gradual and orderly reform For this reason and also owing to the utter chaos that reigned in the leaderless Government Party, there was a strong tendency, during the months that ensued between the death of Sydenham and the arrival of Bagot<sup>4</sup> for the Baldwin Lafontaine Party to increase at the expense of Mr Draper and his colleagues Nevertheless the difference between these two parties as yet but vaguely realized by the colonists in general was vital and fundamental Whereas the Government Party had accepted Sydenham's verdict on responsible government as final<sup>5</sup> the Baldwin Lafontaine group demanded that the principle should be developed to its logical conclusion and that the responsibility of the entire Executive Council to the Assembly alone, should be acknowledged For this reason the leaders of the Opposition were not working so much to obtain office for themselves, as to force the ministry as a whole, to resign and thus give a practical demonstration of the working of the principle of responsible government The position of the Government was made even worse owing to the alienation of Sir Allan MacNab and his Family Compact men Alarmed by Sydenham's progressive policy, especially by the grant of local self-government MacNab was determined to upset the ministry To do this he was even contemplating the drastic step of

<sup>1</sup> Sydenham himself bears witness to this weakness in his ministry Cf p 119

<sup>2</sup> Cf pp 107 116-17

<sup>3</sup> Cf p 115

<sup>4</sup> Lord Sydenham died on 19 September 1841 and Sir Charles Bagot did not reach the colony until the beginning of 1842

<sup>5</sup> Cf p 108

making an unnatural alliance with the French-Canadians.<sup>1</sup> In the fluctuating state of Canadian politics nothing was certain except the defeat of the Government, which seemed imminent and unavoidable.

At first Sir Charles Bagot endeavoured to follow the instructions of the Colonial Secretary. The meeting of the Assembly was to be postponed as long as possible (that is, until September 1842), and in the meantime he would try to strengthen the position of his ministry. For this reason and, also, to show his utter indifference to all distinctions of party, on the one hand, he appointed Francis Hincks,<sup>2</sup> a moderate Reformer, whose excellent business capacities were already recognized, to be Inspector General of Public Accounts, and, on the other hand, Henry Sherwood, a follower of Allan MacNab, was made Solicitor-General for Upper Canada. These manœuvres were not successful in greatly strengthening the position of the Government, and it soon became obvious that, to form a stable ministry, the support of the solid French block (or at least a part of it) was absolutely necessary. The Executive Council advised the governor to admit some French-Canadian members into the Government, but, "bearing in mind the recent history of Lower Canada and the opposition which the French party had offered to the principle and operations of the Act of Union,"<sup>3</sup> he refused. Although he did not wish to admit them to power, Bagot was, however, very desirous of conciliating the French population of the province, which, even now, stood sullenly aloof. He promoted Judge Vallières to be the Chief Justice of Montreal, and made Dr. Meilleur, a French Canadian scholar of distinction, the Superintendent of Public Instruction. These measures proved quite unsuccessful because, as soon as any French-Canadian accepted office, he immediately lost all influence over his compatriots and became "le vendu."

As the time for the opening of the Assembly drew near, the situation became desperate, and even Draper was convinced that the Government would be defeated. In face of

<sup>1</sup> The High Conservative Party I ascertained had made overtures to the French Canadians and were prepared to combine with them in order to overthrow my Executive Council heedless of the inconsistency of such a course and of the difficulties in which its success would have placed me. — Dispatch of Sir Charles Bagot to Lord Stanley 26 September 1842. Cf. Bell and Morrell op cit. p. 69.

<sup>2</sup> Cf. Stephen Leacock *Baldwin Lafontaine Hincks*.

<sup>3</sup> Dispatch of Sir Charles Bagot to Lord Stanley, 26 September 1842. Cf. Bell and Morrell op cit. p. 62.



Sydenham's own resolutions in the Executive Council,<sup>1</sup> the Ministerial Party could hardly be sustained in office in face of a hostile majority in the Assembly. There were, therefore, but two courses open to the governor. He could either dissolve the Assembly and appeal to the people, which would probably result in an even larger majority for the Reformers, or else he could send for Baldwin and Lafontaine and try to obtain their support by offering them influential positions in the Government. Sir Charles decided on the latter course and, on 13 September, 1842, he wrote<sup>2</sup> to Lafontaine offering him the Attorney Generalship of Lower Canada, along with three other seats in the Executive Council for his political associates. At the same time the governor announced his readiness to offer the Attorney Generalship of Upper Canada to Robert Baldwin. Flattering as these proposals were, after a conference with his colleague, Lafontaine did not see fit to accept them. He very wisely realized that it would be very difficult, if not impossible, to work with the members of the old ministry, notably Sherwood, who would still remain in office, and, also, he objected, on principle, to the governor's proposal that certain of the retiring officers should be given pensions.

The negotiations being, therefore, broken off, the governor was obliged to open the Assembly while the political situation was in this uncertain and chaotic condition. The Opposition immediately began a vehement attack upon the ministry, and scenes of unusual violence were witnessed in the House.<sup>3</sup> The debate on the address to the speech from the throne was bitterly fought, and an amendment, containing a direct expression of want of confidence, was moved. Meanwhile Bagot learned that the terms of his offer to Lafontaine had not been made known to all the members of the French-Canadian Party, so he therefore empowered one of his Council to read his letter to the Assembly. "The effect was instantaneous. The negotiation was renewed the next morning, the point at issue was compromised, and the arrangement was completed."<sup>4</sup> Thereupon Draper and the majority of his colleagues were

<sup>1</sup> Cf p 108

<sup>2</sup> Stephen Leacock op cit pp 123-4

<sup>3</sup> This afternoon the great battle commenced. The war is even now being carried into the enemy's camp—excitement increases—members rave—the people wax furious—and where it will end no one can guess.—*Toronto Herald* 13 September 1842. Cf S Leacock, op cit, p 126

<sup>4</sup> Dispatch of Sir Charles Bagot to Lord Stanley, 26 September, 1842. Cf Bell and Morrell op cit, p 69

forced to resign and Baldwin and Lafontaine entered the Government.<sup>1</sup> The Reformers obtained better terms than had been offered to them before but even so they did not obtain the complete reconstruction of the ministry for which they had been hoping. Francis Hincks and four others still retained their positions. For this reason it has been objected that this new Government cannot rightly be called the Baldwin-Lafontaine Ministry.<sup>2</sup> But that objection I think hardly holds good because the centre of political influence was definitely shifted in spite of these few members of the late ministry who still remained in office. Baldwin and his colleague now entirely directed the course of affairs. This was immediately apparent in the Assembly where the hostile amendment to the speech from the throne was withdrawn and a vote of confidence in the Government was carried.

The importance of this change of ministry cannot be overrated. It is the first definite acknowledgment of the doctrine of responsible government. The Conservative Reform Government of Mr. Draper could no longer command a majority in the Assembly and it was forced to resign. Thereupon the governor found himself obliged to send for the leaders of the Opposition and ask them to take up the reins of office whether he approved of their policy or not. This is the essence of the principle of responsible government—that the Executive must have the support of the majority of the elected representatives of the people. Baldwin and Lafontaine fully realized the importance of these events. They regarded themselves as a responsible ministry and expected to be allowed to direct all the official acts of the governor for which they were willing to be held accountable.

It must not be thought however that this episode important as it was formed the beginning of an era of responsible government. It was not so. The political forces working in favour of arbitrary government had by no means been altogether crushed by this one victory and were most unwilling to accept their defeat as final. They made a valiant effort under the leadership of the next governor Sir Charles Metcalfe to recover their lost power<sup>3</sup> and it was not until all their exertions had

<sup>1</sup> Draper quite realized the difficulty of the governor's position and was very willing to resign but some of his colleagues had to be almost dissuaded.

<sup>2</sup> It was Hincks himself who first raised this point.

<sup>3</sup> Cf. pp. 146-52.

been crowned with utter failure that, at last, the system of responsible government was firmly established in the colony during the administration of Lord Elgin.<sup>1</sup> Nevertheless, the stirring events of these momentous September days could never be forgotten. They formed a conclusive proof that complete self government in a dependency was within the realm of practical politics, and that it was no mere phantom in the minds of visionary Reformers or scheming politicians. A precedent of the highest importance had been established, to which the Reformers could ever point and, also, look for guidance until the final goal was reached.

The significance of this change of ministry was immediately realized, both in Canada and in England. In Canada the satisfaction of the Reformers was balanced by the frenzied anger of the ultra-Tories.<sup>2</sup> The governor,<sup>3</sup> especially became the object of their violent attacks.<sup>4</sup> Although the Family Compact was so vehement the majority of the colonists were willing to await events passively and to judge the experiment by its results.<sup>5</sup> Indeed I think the colonists were, on the whole, prepared for responsible government. The forces of reaction were powerful owing to the position and wealth of their members, but numerically they were not strong. This is well illustrated by the fact that Sir Allan MacNab and his diehards only numbered about eight in the Assembly. Although

they railed bitterly against the governor and their political opponents, they were powerless as yet, to alter the trend of events

The news of the great changes in Canada came as a great surprise to the majority in England Sydenham's great success had blinded English statesmen to the dangerous elements of discord that still remained All is happy and quiet in this part of the world boldly asserted *The Times* in August 1842<sup>1</sup> But as early as July Lord Stanley had been perturbed by Bagot's dispatches and had finally applied to Sir Robert Peel for advice Peel's reply<sup>2</sup> is of great interest to any student of colonial history and incidentally shows the utter ignorance of this great statesman of the real political condition of the colonies He advised Bagot to maintain his present ministry (that is of course the Draper Coalition) with firmness moderation and dignified long suffering, even in the face of a majority in the Assembly If he could not do that he should endeavour to make the best possible terms with the Opposition and if that failed he should appeal to the justice of the province He decidedly preferred the policy of choosing the best men from all parties to any other

I would not voluntarily throw myself into the hands of the French Party through fear of being in a minority<sup>3</sup> But before these instructions could be sent to Bagot the news came from Canada of the momentous change of ministry

When the account of Bagot's action reached England official consternation and surprise was truly remarkable<sup>4</sup> Peel clearly disapproved of the whole affair,<sup>5</sup> while the Duke of Wellington was plunged into the depths of despair The Duke has been thunderstruck by the news from Canada Between ourselves he considers what has happened as likely to be fatal to the connection with England And I must also in very strict confidence tell you that he dreads lest it should

said that they must "confirm Sir C Bagot's acts, but that he should be recalled" <sup>1</sup>

There is nothing further of interest during the administration of Sir Charles Bagot. It is uncertain whether the Imperial Parliament would have accepted the advice of the Duke of Wellington concerning the governor's dismissal. That matter was very soon taken out of their hands. Shortly after those exciting events which have made his term of office one of the most important in the history of Canada, had taken place, Bagot became seriously ill and he was obliged to send his resignation to the Colonial Office. Since the surrender of the official imperial position had been so unexpected and contrary to the intentions of the British Government, it is not surprising that his successor was chosen with a view to regain the lost ground.

It was the great misfortune of Sir Charles Metcalfe <sup>2</sup> to be chosen for this arduous and well nigh impossible task. It was tragic irony that this fervent imperialist, honourable, kindly, energetic and well meaning, should have nearly precipitated another rebellion in British North America. All his life had been passed in devoted service to the Empire, both in India, where during his thirty seven years' stay, he had earned the reputation for the highest efficiency in every branch of administration and in Jamaica, where as Governor, he had been successful in crushing party factions and reconciling the various

<sup>1</sup> C S Parker op cit vol iii p 383

<sup>2</sup> Charles Theophilus Metcalfe was born in Calcutta on 30 January 1785. Having been educated at Eton in 1800 he sailed for India as a writer in the service of the East India Company. Four years later he was appointed political assistant to General Lake who was conducting the final campaign of the Mahratta War against Holkar. In 1808 he became envoy to the Court of Ranjit Singh at Lahore where in April 1809 he concluded the treaty securing the independence of Sikh states between the Sutlej and the Jumna. Four years after he was made president at Delhi and in 1819 appointed secretary in the secret and political department. In 1822 he succeeded his brother to the baronetcy and in 1827 he was appointed to the Supreme Council. In March 1835 after he had acted as the first governor of the proposed new presidency at Agra he provisionally succeeded Lord William Bentinck in the governor generalship. During all these years in India he fought a hard and finally successful battle for incorrupt administration. He left the company in 1835 because his liberation of the press so complicated his relations with the directors. In the following year he became Governor of Jamaica where great difficulties had been created by the recent passing of the Negro Emancipation Act. Although brilliantly successful he was compelled to return to England in 1842 owing to ill health. Thinking himself cured six months later he was however appointed Governor General of Canada.

hostile elements. In politics, in which he naturally took but little part, he was a Whig and described himself as a "man who is for the abolition of the corn laws vote by ballot, extension of suffrage, amelioration of the Poor Laws for the benefit of the poor, equal rights to all sects of Christians in matters of religion and equal rights to all men in civil matters," but who "at the same time is totally disqualified to be a demagogue" <sup>1</sup> In whatever Radicalism he may have believed in England, he had no sympathy with that party or its ideals in the British colonies. In fact although one of the greatest Empire-builders of the nineteenth century, he was curiously unfitted, both in character and training, to deal with the complicated problems of Canada. Trained in the East, where arbitrary government flourished he could not understand the subtleties of the West. The ideal civil servant, he was willing to obey the dictates of the Colonial Office whatever they might be. His imperialism was stiff and unyielding. He would uphold the honour of the Crown, whatever might be the cost and would never yield an inch to the demands of the Canadians.

In Canada, it seemed as if a most extensive and full application had been given to the doctrine of responsible government. During the last months of Bagot's administration either from illness or intention, Sir Charles had retired more and more from the real governance of the colony and had ceased to preside at the meetings of his Council. The result was that Lafontaine and Baldwin completely directed affairs, and that Cabinet government, as well as responsible government, became thoroughly established. 'From that time the tone of the members of the Council and the tone of the public voice regarding Responsible Government has been greatly exalted. The Council are spoken of by themselves and others generally as 'the Ministers' 'the Administration' 'the Cabinet,' 'the Government' and so forth. Their pretensions are according to this new nomenclature. They regard themselves as a responsible Ministry, and expect that the policy and conduct of the Governor shall be subservient to their views and party purposes' <sup>2</sup> That the ministers thoroughly realized the significance of their office was proved and brought home to

<sup>1</sup> Sir Charles Metcalfe to Mr R. D. Mangles 13 January 1843. Cf. John William Kaye *Life and Correspondence of Charles Lord Metcalfe* vol. II p. 455.  
<sup>2</sup> Sir Charles Metcalfe to the Colonial Office 24 April 1843. Cf. John William Kaye *op cit* vol. II p. 477.

Metcalfé in the early days of his administration. The governor's secretary, Colonel Higginson, had a private conversation with Lafontaine, during which the latter strongly expressed his views concerning responsible government. Taking his stand upon Sydenham's resolutions of 1841,<sup>1</sup> the great French leader declared that the ministers of the Crown were jointly responsible to the Assembly for all the acts of the governor and, if they lost the confidence of the majority, they must resign. The patronage of the governor was declared to be included in that responsibility.

choosing the best men of all parties<sup>1</sup> "I dislike extremely the notion of governing as a supporter of any particular party I wish to make the patronage of the government conducive to the conciliation of all parties by bringing into the public service the men of greatest merit and efficiency without any party distinction"<sup>2</sup> Metcalfe had indeed, a very peculiarly strong dislike of the party and Cabinet systems in a dependency Democracy in its fullest and most complete form was quite proper in England, but in a colony it was quite out of place<sup>3</sup> and Metcalfe was convinced would lead to separation from the Mother Country 'The tendency and object of this movement is to throw off the Government of the Mother Country in internal affairs entirely—but to be maintained and supported at her expense and to have all the advantages of connection as long as it may suit the majority of the people of Canada to endure it This is a very intelligible and very convenient policy for a Canadian aiming at independence but the part that the representative of the Mother Country is required to perform in it is by no means fascinating<sup>4</sup> In discussing this subject of party government it must be remembered when censuring Metcalfe for his blindness to the real facts of the case that the party system in Canada had by no means reached the orderly stage to which we are so accustomed in England For the violence of opinions and the bitter animosity with which each party regarded the other we are reminded more of conditions in seventeenth century England

<sup>1</sup> It was the general opinion in England that this was the best possible system for a dependency But in a small community he did not think that party could govern with an advantage —Sir Robert Peel 30 May 1844 Cf Hansard *Parliamentary Debates* 1844 vol lxxv p 75

<sup>2</sup> Dispatch of Sir Charles Metcalfe to the Colonial Office 24 April 1843 Cf John William Kaye op cit vol ii p 492

<sup>3</sup> Had the executive branch of the Government been maintained independent of the legislative all the essential principles of Responsible Government might have been secured by the constant exercise of a due regard to the rights and feelings of the people and the Representative Assembly without creating those embarrassments which arise exclusively from the assumed dependence of the Executive Officers on that body—a system of Government which however suitable it may be in an independent state or in a country where it is qualified by the presence of a Sovereign and a powerful aristocracy and by many circumstances in correspondence with which it has grown up and been gradually formed does not appear to be well adapted for a colony —Dispatch from Metcalfe to Lord Stanley 13 May 1845 Cf Bell and Morrell op cit p 86

<sup>4</sup> Dispatch from Metcalfe to Lord Stanley 12 May 1845 Cf *Life and Correspondence of Lord Metcalfe* vol ii pp 493-5



rather than of the orderly and precise forms of the nineteenth<sup>1</sup> Violence and intimidation were usual weapons at election times while disgraceful scenes were often witnessed in the Assembly. Metcalfe's biographer declares that "the curse of faction appeared before him so swollen and exaggerated, that he wondered the evils, with which he had contended during his former government, had ever disquieted him at all"<sup>2</sup> The truth of the whole matter was that the frontier between the authority of the governor and that of the responsible ministers had not yet been properly defined either by law or custom and neither really knew how far to go. The unbending character of this stubborn old imperialist was quite inadequate ever to solve this difficult problem.

Metcalfe very soon formulated the policy that he intended to pursue. He determined to try to conciliate all parties and to draw the best talent into the service of the colony. This had been the ideal of Lord Sydenham<sup>3</sup> but only the chaotic state of the colony, and the governor's strong personality, had made the system work at all. The events in Bagot's administration had shown the inadequacy of this theory as a permanent form of government. It was however, to be tried again. 'If I had a fair open field I should endeavour to conciliate and bring together the good men of all parties and to win the confidence and co-operation of the legislative bodies by measures calculated to promote the general welfare in accordance with public feeling but fettered as I am by the necessity of acting with a Council brought into place by a coalition of parties, and at present in possession of a decided majority in the Representative Assembly, I must, in some degree forgo my own inclinations in those respects although I may still strive as a mediator to allay the bitterness of party spirit"<sup>4</sup> Until therefore political conditions in the colony were more favourable for the exposition of his policy, he decided 'My general course which I propose to pursue towards the Council is to treat them with the confidence and cordiality due to the station which they occupy to consult them not only whenever

the law or established usage requires that process, but also whenever the importance of the occasion recommends it, and whenever I conceive that the public service will be benefited by their aid and advice. At the same time, I must be on my guard against their encroachments" <sup>1</sup>

There was no question, during Metcalfe's administration, of whether the governor must always frame his policy in accordance with the wishes of the majority in the Assembly. That had already been decided, and Metcalfe himself definitely states that "government without a majority must be admitted to be ultimately impracticable" <sup>2</sup> "But the present question, and the one which is coming on for trial in my administration, is not whether the Governor shall so conduct his Government as to meet the wants and wishes of the people, and obtain their suffrages by promoting their welfare—nor whether he shall be responsible for his measures to the people, through their representatives—but whether he shall, or shall not, have a voice in his own Council whether he shall be at liberty to treat all Her Majesty's subjects with equal justice, or be a reluctant and passive tool in the hands of a party for the purpose of proscribing their opponents" <sup>3</sup> It was on the composition of the Executive Council that the struggle would take place

Needless to say the ministers after their recent victory, were not willing quietly to acquiesce in Metcalfe's ideas. I learn that my attempts to conciliate all parties are criminal in the eyes of the Council or, at least of the most formidable member of it. I am required to give myself up entirely to their dictation, to have no judgment of my own to bestow the patronage of the Government exclusively on their partisans, to proscribe their opponents, and to make some public and unequivocal declaration of my adhesion to those conditions—including the complete nullification of Her Majesty's Government—a course which under self-deception he denominates Sir Charles Bagot's policy, although it is certain that Sir Charles Bagot meant no such thing. Inailing of submission to these stipulations I am threatened with the resignation of Mr Lafontaine. I need hardly say that although I see the necessity for caution,

<sup>1</sup> Dispatch of Sir Charles Metcalfe to Lord Stanley 24 April 1843 Cf *LIFE and Correspondence of Lord Metcalfe* vol ii p 493

<sup>2</sup> Dispatch of Sir Charles Metcalfe to Lord Stanley 12 May 1843 Cf *LIFE and Correspondence of Lord Metcalfe* vol ii pp 493-5

<sup>3</sup> *Ibid* pp 493-5

I have no intention of tearing up Her Majesty's commission by submitting to the prescribed conditions<sup>1</sup>

A conflict between the governor and his Council was therefore practically inevitable. The situation was made considerably worse by another mistaken opinion on the part of the governor, natural enough in the circumstances but none the less dangerous. Since he so greatly hated the political views of the French and their allies, he gradually and unconsciously drifted towards the old Family Compact group. Fervently loyal himself, Metcalfe thought that loyalty could not be anything else but guileless, and was completely deceived by the loud cries of attachment to the Mother Country to which the ultra Tories gave vent on every occasion. He gradually became convinced that they and they alone were devoted to the Empire, and that the Republicans (as he called the reforming section) were working for their own ends and were opposed to the interests of Great Britain. My chief annoyance at present proceeds from the discontent of what may fairly be called the British Party in distinction from the others. It is the only party in the colony with which I can sympathize. I have no sympathy with the anti-British rancour of the French Party or the selfish indifference towards our country of the Republican Party. Yet these are the parties with which I have to co-operate, and because I do not cast them off, the other party will not see that I cannot and construe all my acts as if they were the result of adhesion to anti-British policy.<sup>2</sup> It is impossible not to see in these ideas a clear reflection of the policy of Sir Francis Bond Head, whose ultra Toryism precipitated the rebellion in Upper Canada.<sup>3</sup>

For a time all went well, and the governor seemed to be moving slowly towards the realization of his aims. I have got on smoothly with the Council hitherto, with cautions on my part but without any sacrifice of what appears to be under present circumstances the proper authority of the governor. The business of the Government is carried on by myself in communication with the Secretaries; no orders are issued without my personal dictation or sanction, and only those matters are referred to the Council which the law or established

<sup>1</sup> Dispatch of Sir Charles Metcalfe to Lord Stanley, 12 May 1843. Cf. *Life and Correspondence of Lord Metcalfe*, vol. ii, pp. 493-5.

<sup>2</sup> Dispatch of Sir Charles Metcalfe to Lord Stanley, 1843. Cf. *Life and Correspondence of Lord Metcalfe*, vol. i, pp. 516-17.

<sup>3</sup> Cf. p. 66 seq.

was Baldwin's attempt to secularize higher education by transferring lands granted to King's College, to a new state institution, the University of Toronto. Seriously alarmed the indomitable old Bishop Strachan<sup>1</sup> in a violent and militant spirit, came forward to defend his flock. The furious religious passions of the earlier years<sup>2</sup> seemed to be flaming up anew. The political stage was well prepared for the final outbreak.

While the battle concerning this second measure was still being fiercely waged the collision between the governor and the Council which Metcalfe had been dreading since the first months of his sojourn in the colony,<sup>3</sup> took place. For many months Baldwin and Lafontaine had felt the governor's distrust of them and his preference for the ultra Conservatives.<sup>4</sup> The governor's use of patronage was the occasion for the final break. Metcalfe made two appointments, one to the Speakership of the Legislative Council and one to a vacant clerkship of the peace without first notifying or consulting his ministers. After remonstrating with him without effect, the whole Council

late Council heard his sentiments on it expressed to them. He also told them that it was an arbitrary and unwise measure and not even calculated to effect the object that it had in view. Permission to introduce a Bill can never be justly assumed as fettering the Governor's judgment with regard to the Royal assent for the discussion in Parliament during the passage of the Bill may materially influence his decision in this case. The Bill was strongly opposed and reprobated in the Assembly but when it went to the Legislative Council many of its members had seceded and it did not come up from that House with the advantage of having been passed in a full meeting. Taking these circumstances into consideration together with the precise instructions of Her Majesty it was much better that it should not go into operation until confirmed by Her Majesty's Government than it should be disallowed after its operation had commenced. Cf. *Life and Correspondence of Lord*

with the exception of one member, Mr Daly, resigned office on 26 November, 1843

Metcalf gives what is probably the fairest account of what happened "On Friday, Mr. Lafontaine and Mr Baldwin came to the Government House, and, after some irrelevant matters of business and preliminary remarks as to the course of their proceeding, demanded of the Governor-General that he should agree to make no appointment, and no offer of appointment, without previously taking the advice of the Council, that the lists of Candidates should in every instance be laid before the Council, that they should recommend any others at discretion, and that the Governor General, in deciding, after taking their advice, should not make any appointment prejudicial to their influence, in other words, that the patronage of the Crown should be surrendered to the Council for the purchase of Parliamentary support The governor replied that he could not make any such stipulation, and could not degrade the character of his office nor violate his duty, by such

in the anomalous position of being according to their own avowal and solemn public pledges responsible for all the acts of the Executive Government to Parliament and at the same time not only without the opportunity of offering advice respecting those acts but without the knowledge of their existence until informed of them from private and unofficial sources <sup>1</sup> This was by no means the realization of the principle of responsible government which they were determined to achieve and for which they were willing to fight

The governor was equally determined never to give way to these demands for he was convinced that such a course would be to surrender the Queen's Government into the hands of rebels and to become myself their ignominious tool I know not what the end will be The only thing certain is that I cannot yield <sup>2</sup> The issue was complicated because Sir Charles Metcalfe did not realize that the demands of the Council were a natural complement of the grant of self government that the one was not complete without the other Metcalfe had no desire to govern arbitrarily and he willingly conceded the principle of responsible government <sup>3</sup> but the demand that the patronage of the Crown should also be subservient to the ministers he felt was quite new and revolutionary It must be remembered however that at this time the doctrine was not fully understood and realized as it is to day The demands of the Council seemed to many others besides Metcalfe unusual and over reaching The state of the public mind will be understood when it is realized that two such ardent colonial reformers as Edward Gibbon Wakefield <sup>4</sup> and

<sup>1</sup> Letter of Lafontaine to Sir Charles Metcalfe Cf *Annual Register* 1844 vol 86 p 291

<sup>2</sup> Sir Charles Metcalfe to Colonel Stokes Cf *Life and Correspondence of Lord Metcalfe* vol ii p 523

<sup>3</sup> I found responsible government practically acknowledged in this colony and I endeavoured to carry it out for the public good —Sir Charles Metcalfe's reply to an address from the Talbot District Cf *Life and Correspondence of Lord Metcalfe* vol i p 515

<sup>4</sup> The Governor is under no formally admitted obligation to consult all his ministers about all appointments but he is under the practical necessity more than ninety nine times out of a hundred of acting through some one or more of them and they therefore can make sure of knowing what he is about and time to be able to remonstrate if they see fit so to do before the act is done The position in this respect is as nearly as possible that which English ministers of the Crown are perfectly content to occupy The demand they made upon Sir Charles for an assurance beforehand that he would always consult them collectivelv before making any appointment or offer of appointment great or small and that, after thus consulting them he never would appoint or offer to appoint any one whose nomination might prejudice their

Charles Buller<sup>1</sup> warmly supported the governor and vigorously defended his policy. It was generally believed that to give way to the demands of the Reformers would lead to the "separation of the colony from the Mother Country."<sup>2</sup> The resignation of Baldwin and Lafontaine was a direct challenge. They had clearly stated their principles of government which, during the last months of Bagot's administration, they had proved to be both necessary and practicable. By retiring, the Reformers forced the governor to put his own theories into practice.

This was the task which occupied the subsequent two years of Metcalfe's administration. In the first place, he had to form another Council, which proved to be a painful and laborious task. He had, of course, Mr. Daly, the one remaining councillor, at his disposal, and, to form a ministry representing all parties, he communicated with Conservatives, Reformers, and French-Canadians. The governor finally persuaded William Draper<sup>3</sup> to join his Government, and also Denis Benjamin Viger,<sup>4</sup> a French-Canadian of some importance, whom he had approached in the hope of winning over some of the French Party. That manoeuvre, however, proved unsuccessful.<sup>5</sup> It was not until August 1844, more than eight months after the resignation of the former councillors, that a new Council could be assembled. Even then, however, it was obvious that, without Baldwin and LaFontaine, no ministry could be formed which would have the support of the majority

interests—or in other words, who might not be of their party—apart from its being unconstitutional, was neither more nor less than an impracticable absurdity." Cf. Edward Gibbon Wakefield, *op cit.*, p. 328.

<sup>1</sup> "But while he should resist any attempt to abandon it [i.e. the principle of responsible government], he felt it to be equally his duty to resist any attempts from those on the popular side to abuse it, by encroaching on the just and due prerogatives of the Crown." Sir Charles Metcalfe did not violate the principle of responsible government. He was firmly convinced, looking at the subject with no bias whatever against the gentlemen who had gone out of office, that the errors in the case were upon the part of those who had quarrelled with Sir C. Metcalfe." Cf. speech of Charles Buller in the House of Commons, 30 May, 1844. Hansard *Parliamentary Debates* (Third Series), 1844, vol. lxxv, pp. 63-9.

<sup>2</sup> Sir Charles Metcalfe to Colonel Stokes. Cf. *Life and Correspondence of Lord Metcalfe*, vol. II, p. 523.

<sup>3</sup> Cf. pp. 116 seq., 128 seq.

<sup>4</sup> Cf. W. Stewart Wallace *Dictionary of Canadian Biography*, pp. 411-12.

<sup>5</sup> "His [i.e. Viger's] communications," said Metcalfe, "gave encouragement; but it soon became evident that his presence had not produced any decisive change." Cf. *Life and Correspondence of Lord Metcalfe*, vol. II, p. 551.

in the present House of Assembly Having, at last, got his Council together, Metcalfe determined to dissolve the Assembly and risk an appeal to the colonists in the hope of obtaining a majority favourable to himself The governor's position was truly a desperate one, and he fully realized it Everything turned on the coming elections<sup>1</sup>

This was fully realized in the colony in general The air was charged with electricity, party strife passed all bounds, and violence was prevalent in all parts of the country His system at stake Metcalfe took an active part in the contest, and his address to the Gore Councillors was in itself an election manifesto<sup>2</sup> Every weapon was pressed into service and the cry of loyalty to the Mother Country was raised, once more, as loudly and as fiercely as in the days of Sir Francis Bond Head<sup>3</sup> Metcalfe was convinced that the fight was one between loyalists and traitors<sup>4</sup> and as such he put the contest before the electors "You desire to perpetuate your union with the British Empire Do not imagine that this purpose can be promoted by obstructing Her Majesty's Government in order to reduce its authority to a nullity"<sup>5</sup> If he acceded to the demands of his opponents he declared that "All the power and functions of the Government would be monopolized by the Executive Council or the House of Assembly, as the case might be In such a constitution where would be the Crown? Where the supremacy of the Mother Country?"<sup>6</sup> The ultra-Tory group under Sir Allan MacNab responded to

<sup>1</sup> Since I have not been able to form a Council likely to carry a majority such is the dread of the power of the party who thought by their resignation to drive me to receive them back and submit to their demands I have now to strive to obtain a majority in the present Parliament If I fail in that I must dissolve and try a new one I do not know that I shall have a better chance in that and if I fail then still I cannot submit —Metcalfe to Colonel Stokes Cf *Life and Correspondence of Lord Metcalfe* vol ii p 528

<sup>2</sup> Address to the Gore Councillors Cf *Life and Correspondence of Lord Metcalfe* vol ii pp 533-6



the old cry and rallied their supporters in all parts of the colony. The Eastern Townships stood firm by the governor. Egerton Ryerson also directed the Methodists in his favour, while many a doubter was drawn by the cry of loyalty. Therefore, in spite of the solid opposition of the French Canadians and the Reformers of Upper Canada the governor's party obtained a small majority.<sup>1</sup> Sir Allan MacNab was elected Speaker of the Assembly by three votes. The governor had succeeded in his task, but the cost was tremendous. In his desire to free himself from being controlled by the party system he had fallen into a still narrower rut. He had made himself the leader of the small Conservative group in the colony and had, at the same time incurred the violent and lasting animosity of the largest section of the community.

During the whole of this trying and critical period Metcalfe received the enthusiastic support of all parties at home. Not only did Peel<sup>2</sup> and Stanley<sup>3</sup> defend their representative in Canada but even Russell<sup>4</sup> and Buller<sup>5</sup> were as thorough as any in their condemnation of the pretensions of the Council. This universal chorus of approval culminated in the conferring

<sup>1</sup> In his dispatch of 23 November 1844 Metcalfe reported that the Government had forty six members the Opposition twenty eight and nine were uncertain. The governor however later proved to have been over optimistic for the Government majority was never more than six.

<sup>2</sup> It appeared to him that Sir Charles Metcalfe had been completely in the right in this respect and that he was entitled to the entire confidence of Her Majesty's Government and to the fullest support that the Government could afford. As to the proposal that he should bind himself to act upon the recommendation of the Executive Council whether conveyed in writing or by tacit understanding he thought Sir C. Metcalfe would have submitted to a great humiliation if he had consented. He thought it might be for the interest of the governed that the Governor should refuse to place himself under the entire control of the Executive Council and that it was impossible to govern Canada on the same principles on which the country was governed.

—Sir R. Peel Cf. Hansard 1844 vol lxxv pp 74-5.

<sup>3</sup> He therefore approved of the discretion exercised by Sir C. Metcalfe in refusing his consent to a proposition which bound him in every respect to the will and pleasure of the Executive Council. —Lord Stanley Cf. Hansard 1844 vol lxxv p 47.

<sup>4</sup> If their [i.e. the Executive Councillors] opinion was that Sir C. Metcalfe should listen to them and not obey his instructions from England they took he must say an exaggerated view of their own power and importance to which it was impossible for Sir C. Metcalfe to assent. Taking then the high authority of Sir C. Metcalfe for the facts—and there could not be higher authority—it appeared to him that Sir C. Metcalfe was right in the disputes with his late Executive Council.

—Lord John Russell Cf. Hansard 1844 vol lxxv p 71.

<sup>5</sup> Cf. Hansard 1844 vol lxxv pp 63-9. To call upon the Crown or upon any representative of the Crown for any pledge of the sort appeared to him unheard of.

—C. Buller p 65.

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of a peerage upon Metcalfe "for the purpose of marking Your Majesty's cordial approbation of the services of a most able and faithful officer of the Crown, of aiding him in the discharge of a most important public trust, and of giving confidence and animation to the Canadian friends and supporters of Sir Charles Metcalfe and of connexion with the Mother Country."<sup>1</sup> Although the fruits of his policy wrought a terrible cleavage in the body of the colony, yet, in a sense, the honours were not misplaced. He had been sent out by the Colonial Office to prevent further encroachments on the part of the reforming parties, and he had fully obeyed these instructions. After a hard struggle, his efforts had been crowned with victory—Pyrrhic though it proved. That he had been sent to tread the wrong path was not so much his fault as the most tragic event of an honourable and faithful career in the service of the Empire.

Before his departure from the colony, which took place at the end of 1845 owing to ill-health, Metcalfe saw the failure of his theories. The majority in the Assembly, which he had so triumphantly announced to the Colonial Office, was soon torn by internal quarrels and dissensions. The Government Party was united only in a desire to support the governor, and not by a wish to co-operate with each other. Metcalfe soon discovered that personal support is not, in itself, a political programme. There were many causes of disagreement, notably on the old score of education,<sup>2</sup> but the most ominous sign of discord was a quarrel which arose between the ministry and their followers in the Assembly. This soon resulted in the former having no authority whatever over the latter. The colony seemed, once more, to be sinking into that state of disorder that Sydenham had found on his arrival in the colony more than five years before.<sup>3</sup> The only thing that was certain was that it would become increasingly difficult to maintain that strangely composite ministry in power.

<sup>1</sup> Sir Robert Peel to the queen, 30 November, 1844. Cf. *Life and Correspondence of Lord Metcalfe*, vol. II, p. 583.

<sup>2</sup> This had been a source of great political strife in the previous ministry. Cf. pp. 143-4.

<sup>3</sup> John Arthur Roebuck declared in the House of Commons that "there could be no doubt that embarrassments had accumulated to such a degree as to threaten a recurrence of the events of 1837-9." Cf. Hansard, 1844, vol. lxxv, p. 34.

This was also the opinion of Joseph Hume. Cf. Hansard, 1844, vol. lxxv, pp. 62-3.

of Lord Metcalfe were well known,<sup>1</sup> and Lord Stanley declared it to be his opinion that if "the present administration should be broken up by internal dissensions I should indeed augur ill for the welfare of Canada and for its long continuance as a British colony"<sup>2</sup> Wakefield usually so confident in the future of the Empire, speaks in a similar vein<sup>3</sup> Indeed no other solution seemed possible The statesmen of Great Britain were resolutely convinced that any further concessions to the Canadians would result in the separation of the colony from the Empire<sup>4</sup> On the other hand it was obvious that Baldwin and Lafontaine would never submit to Lord Metcalfe's system<sup>5</sup> The position seemed an impossible one Only one thing stood out clearly—that unless some great constitutional change was effected within a very short period, Canada was undoubtedly lost to the British Empire

Canadian people step by step to that result which one day must inevitably occur—complete self government—in order that when the separation from the Mother Country took place it might be of a friendly and not a hostile nature Cf Hansard op cit 1844 vol lxxv p 35

<sup>1</sup> Cf p 138 seq

<sup>2</sup> Dispatch of Lord Stanley to Lord Metcalfe 18 June 1845 Cf *Life and Correspondence of Lord Metcalfe* vol II p 596

<sup>3</sup> the question will be put anew whether or not Canada has public men reasonable enough not to quarrel for shadowy impossibilities Should the new House on its meeting and the country by its after expression of opinion show that it has *not* the collision will have taken place which must end in the alternative of government by the Mother Country till such time as the province shall have learned wisdom or of separation before that time shall come The Imperial Authority has no other to fall back upon Cf Edward Gibbon Wakefield op cit p 356

<sup>4</sup> Not only would such a course be inconsistent with Monarchical Government, but also with Colonial dependence and at once would place the whole authority in the hands of the dominant party for the time and convert Canada into a republic independent of the crown of this country —Lord Stanley 30 May 1844 Cf Hansard vol lxxv p 42

<sup>5</sup> No one could expect that the Canadians would be contented unless the Government were conducted as it had been by Sir C Bagot and ministers were allowed to act in unison as the representative Assembly —Joseph Hume Cf Hansard 1844 vol lxxv p 62

## CHAPTER VI

### RESPONSIBLE GOVERNMENT

THE year that intervened between the departure of Lord Metcalfe and the arrival of Lord Elgin in Canada at the beginning of 1847, may be disregarded in this inquiry. Earl Cathcart,<sup>1</sup> who held office in the interval, was chosen at a time when, owing to strained relations with the United States, occasioned by the Oregon Boundary question,<sup>2</sup> it was deemed advisable to combine the civil and military headship of Canadian affairs in one person. He was, however, interested solely in the military side of the situation, and took little or no part in domestic politics. When the danger of a breach with the United States had passed away, it was, therefore, decided that, as the management of Canadian affairs was calculated "to create much anxiety for the future," it "should be entrusted to a person possessing an intimate knowledge of the principles and practice of the Constitution of this country, some experience of popular assemblies, and considerable familiarity with the political questions of the day"<sup>3</sup>

<sup>1</sup> Charles Murray second Earl Cathcart was born in 1783. He entered the 2nd Life Guards in 1800 and his promotion was rapid. From 1837 to 1842 he was Commander of the Forces in Scotland and Governor of Edinburgh Castle. In 1843 he succeeded to the peerage and from 1846 to 1849 he was Commander in-Chief of the British Forces in North America. On his return to England he was appointed to the command of the northern and midland district and his resignation from this post in 1854 brought to an end his active service. He was always interested in scientific pursuits and in 1841 he discovered a new mineral sulphate of cadmium. He died in 1859.

<sup>2</sup> By treaties in 1818 and 1827 Great Britain and the United States had agreed to a joint occupation of the Oregon territory. From 1842 until 1845 a very large number of American emigrants settled in that part and set on foot a movement for the immediate settlement of the Oregon dispute. The western states rallied to their support with the result that the Democratic National Convention in 1844 declared the right of the United States to the whole of the territory. There was some danger of a direct conflict between Great Britain and the Republic, but in 1846 a compromise was agreed upon which fixed the boundary as it is to-day.

<sup>3</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell*, vol. 1, p. 207.

Queen Victoria had suggested Lord Elgin's<sup>1</sup> name to Stanley before the fall of the Tory Government<sup>2</sup> and it was again put forward by Prince Albert to the Whigs in August 1846.<sup>3</sup> The new Whig ministry, neglecting party divisions appointed Lord Elgin to work out with Earl Grey, the Colonial Secretary, adequate and stable administrative principles in Canada. The choice was a most fortunate one. Having already obtained valuable experience in Jamaica, Elgin also belonged to one of the most distinguished groups of nineteenth-century politicians. With Gladstone, Canning and Dalhousie, he had served his apprenticeship under Sir Robert Peel and he fully reflected the common sense, the high administrative ability, and the sound but progressive conservatism of his great master. Thus he brought with him into the stormy sea of Canadian politics, traditions of calm and discriminating liberalism of wise insight and freedom from doctrinaire theories which characterize so many of the Peelites. In addition he had married a daughter of Lord Durham and his advent linked up Canadian development with the name of a great English statesman who had really understood and had also endeavoured to solve the colonial problem. He had moreover fully adopted the views

<sup>1</sup> James Bruce eighth Earl of Elgin was born in 1811 and succeeded to the peerage in 1841. He began his official career in 1842 as Governor of Jamaica where he improved the condition of the negroes and conciliated the planters by working through them. In 1846 he was appointed Governor General of Canada and soon after his return to England in 1854 Lord Palmerston offered him a seat in the Cabinet which he declined. But when in 1856 the seizure of the *Arrow* by Commissioner Yeh plunged England into war with China he went as special envoy with the expedition. In spite of numerous difficulties a convention was made in 1860 which was entirely satisfactory to Her Majesty's Government. During this period he paid a visit to Japan which proved to be the beginning of British influence in that country. Elgin had not been home a month when Lord Palmerston selected him to be Viceroy and Governor General of India. As the first viceroy appointed by the Crown and subject to the Secretary of State for India Elgin gave up the stimulating responsibility of the governors general which had prevailed from the days of Clive and Warren Hastings. He continued the wise and equitable policy of his predecessors towards the Indian feudatories and did his best to check the aggressions of the Dutch in Sumatra. He supported Dost Mahomed in Kabul until he entered the neutral territory of Herat. Then however he assembled his forces to punish him but died in the midst of this expedition on 20 November 1863.

<sup>2</sup> The Queen knew no one who would be as fit for the appointment as Lord Elgin who seems to have given great satisfaction in Jamaica where he has already succeeded Lord Metcalfe. — Queen Victoria to Lord Stanley 2 November 1845. Cf. *The Letters of Queen Victoria* ed. by Arthur Christopher Benson and Viscount Esher vol. II p. 55.

<sup>3</sup> Letter of Prince Albert to Earl Grey 3 August 1846. Cf. *Letters of Queen Victoria* vol. II p. 112.

and principles of his father in law, as set forth in the famous report<sup>1</sup> During the seven years of his administration, unparalleled advances were made The old tantalizing questions of racial animosities, principles of government, and internal problems, both of Church and State, were settled and new foundations were laid In the history of the self-governing dominions of Britain, his name is one of the greatest of those who assisted in creating an Empire the secret of whose strength was to be local autonomy

Before considering the problems which awaited Elgin in Canada, it is well to realize the trend of official opinion in England, for it always had a vital effect on colonial affairs The danger of the Metcalfe crisis was all the more serious because his policy had been more than the expression of a personal mood, it had been the policy of the British Government The queen was convinced that it was 'of the greatest importance that the judicious system pursued by Lord Metcalfe (and which, after a long continuation of toil and adversities, only now just begins to show its effect) should be followed up by his successor,'<sup>2</sup> and similar views were expressed by Prince Albert<sup>3</sup> Lord Stanley had vigorously supported Metcalfe<sup>4</sup> and, on his resignation, W E Gladstone pursued the same course<sup>5</sup> The Colonial Office seemed quite unable to realize the real nature of the situation in Canada The fall of the Tory ministry, however, brought a welcome change With the advent of the Whigs to power, Earl Grey came to preside over colonial affairs and thus proved to be the beginning of a new era in colonial administration

<sup>1</sup> I have adopted frankly and unequivocally Lord Durham's view of government and I think I have done all that could be done to prevent its being perverted to vile purposes of faction —Letter of Lord Elgin to his wife 31 January 1847 Cf *Letters and Journals of James Earl of Elgin* edited by T Walrond p 36

<sup>2</sup> Letter of Queen Victoria to Lord Stanley 22 November 1845 Cf *Letters of Queen Victoria* vol II p 55

<sup>3</sup> The only thing that has hitherto proved beneficial was the prudent consistent and impartial administration of Lord Metcalfe Upon the continuance and consistent application of the system which he has laid down and acted upon will depend in the Queen's estimation the proper welfare of that province and the maintenance of proper relations with the Mother Country —Letter of Prince Albert to Earl Grey 3 August 1846 Cf *Letters of Queen Victoria* vol II pp 111-12

<sup>4</sup> Cf p 149 seq

<sup>5</sup> Bell and Morrell *Select Documents of British Colonial Policy* p 23



The importance of Earl Grey<sup>1</sup> in the history of the British Empire can hardly be over-estimated. Industrious and painstaking, he understood, more than any of his predecessors, the conditions existing in the colonies and, in spite of his sharp tongue and quick temper, he was ever ready to accept advice or acknowledge a mistake. He belonged, moreover, to the more advanced school of Colonial Reformers, sharing the views of Edward Gibbon Wakefield on all matters of colonial administration.<sup>2</sup> Grey was the first minister of the Crown to proclaim that colonies should be governed for their own benefit and not for that of the Mother Country, and, in the same spirit, he was willing to trust the colonists to work out their own future in their own way.<sup>3</sup> He was convinced that "this country has no interest whatever in exercising any greater influence in the internal affairs of the colonies than is indispensable either for the purpose of preventing any one colony from adopting measures injurious to another or to the Empire at large."<sup>4</sup> In conceding so much, however, he closely followed the teaching of Lord Durham's Report, and recognized the same distinctions

<sup>1</sup> Henry third Earl Grey was born in 1802 the son of the second Earl Grey who was Prime Minister at the time of the Reform Bill of 1832. As Viscount Howick he sat in the House of Commons first for Winchelsea and then for Northumberland. He was Under Secretary for the Colonies in 1830 and then laid the foundations of his great knowledge of and interest in colonial affairs. He resigned however in 1834 from dissatisfaction that slave emancipation was made gradual instead of immediate. In 1835 he entered Lord Melbourne's Cabinet as Secretary for War but in 1839 he again resigned disapproving of the more advanced views of some of his colleagues. In 1846 he became Colonial Secretary and the six years of his administration effected a revolution in the relations between England and her colonies. He resigned in 1852 and never again held office. During the remainder of his long life Grey exercised a vigilant criticism on public affairs although he took no

between imperial and local concerns.<sup>1</sup> In certain cases he felt it might be necessary for the imperial authority to intervene and even to exercise a moderating influence upon the internal affairs of the colonists. But, in general, his views were remarkably broad, and he immediately repudiated the old method of giving minute instructions to the governors on all possible questions.<sup>2</sup>

Important as his maxims of colonial policy were, far more vital and stimulating was his fervent belief in the future of Greater Britain. Earl Grey is the first colonial minister who had any real faith in the Empire. Coming at a most critical period in its history, his confidence had a most beneficial effect upon the course of events. Unlike so many of his contemporaries, he refused to believe that the grant of responsible government was the first step towards separation, but he was continually inspired by the vision of a glorious union of free peoples. Occasionally, it is true, his confidence was shaken and his imperial aspirations were rather depressed. An enthusiastic Free Trader, he was very perturbed at the idea of a colonial tariff and wondered if it should be allowed. But, during his co-operation with Lord Elgin, he slowly passed to firmer and more stable beliefs. His imperialism found a moral basis, and he saw in the future of the Empire, 'a powerful instrument, under Providence, of maintaining peace and order in many extensive regions of the earth and thereby assisting in diffusing, among millions of the human race, the blessings of Christianity and civilization'.<sup>3</sup>

It was in this spirit that Earl Grey tackled the Canadian problem. His solution of the question of the relationship between the governor and his Executive Council which had so perturbed Lord Metcalfe,<sup>4</sup> was eminently wise and statesman-like. It would never have satisfied a politician with a lower conception of Empire, but Grey's idealism was fully vindicated in the new era which this measure to a large extent, helped to produce. Grey's views are best understood from a dispatch which he wrote to Sir John Harvey the Lieutenant Governor

<sup>1</sup> Cf. pp. 90-1

<sup>2</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell*

vol. 1 p. 20

<sup>3</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell*

vol. 1 p. 13

<sup>4</sup> Cf. p. 144 seq.

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<sup>4</sup> Cf. p. 144 seq.

of Nova Scotia "The object with which I recommend to you this course is that of making it apparent that any transfer which may take place of political power from the hands of one party in the province to those of another, is the result, not of an act of yours, but of the wishes of the people themselves, as shown by the difficulty experienced by the retiring party in carrying on the government of the provinces, according to the forms of the constitution To this I attach great importance I have, therefore, to instruct you to abstain from changing your Executive Council until it shall become perfectly clear that they are unable, with such fair support from yourself as they have a right to expect, to carry on the government of the province satisfactorily and command the confidence of the Legislature Of whatever party your Council may be composed, it will be your duty to act strictly upon the principle you have yourself laid down in the memorandum delivered to the gentlemen with whom you have communicated—that, namely, of not identifying yourself with any one party but, instead of this, making yourself both a mediator and a moderator between the influence of all parties In giving, therefore, all fair and proper support to your Council for the time being, you will carefully avoid any acts which can possibly be supposed to imply the slightest personal objection to their opponents, and also to refuse to assent to any measures which may be proposed to you by your Council which may appear to you to involve an improper exercise of the authority of the Crown for party, rather than for public, objects In exercising, however, this power of refusing to sanction measures which may be submitted to you by your Council, you must recollect that this power of opposing a check upon extreme measures proposed by the party for the time in the Government, depends entirely for its efficacy upon its being used sparingly and with the greatest possible discretion A refusal to accept advice tendered to you by your Council is a legitimate ground for its members to tender to you their resignation—a course they would doubtless adopt should they feel that the subject on which a difference had arisen between you and themselves was one upon which public opinion would be in their favour Should it prove to be so, concession to their views must, sooner or later, become inevitable, since it cannot be too distinctly acknowledged that it is neither possible nor desirable to carry on the government of any of the British Provinces in North

America in opposition to the opinion of the inhabitants" <sup>1</sup> This dispatch conceded responsible government in the fullest sense of the word, and Grey never deviated from it. The dispatch was shown to Elgin before he departed for Canada, and it was his constant guide through the early troubled years of his administration there.

When Lord Elgin arrived in the colony he found it in a most dangerous condition. So turbulent had been the administration of his predecessor that he had to start afresh from 1841. "I find on my arrival here a very weak Government, almost as much abused by their friends as by their foes, no civil or private secretary, and an immense quantity of arrears of business" <sup>2</sup> The French Canadians were in an ominous state of political isolation and gloom, while the imperial relationship was insecure and doubtful <sup>3</sup>. At the same time, Elgin was impressed by the lack of principle to be found amongst the contending parties <sup>4</sup>. "In a community like this, where there is little, if anything, of public principle to divide men, political parties will shape themselves under the influence of circumstances and of a great variety of affections and antipathies national, sectarian, and personal and I never proposed to attempt to force them into a mould of my own forming. It is not even pretended that the divisions of party represent corresponding divisions of sentiment on questions which occupy the public mind such as Voluntarism, Free Trade, etc. Responsible government is the only subject on which the coincidence is alleged to exist" <sup>5</sup>. The only remedy for such a state of affairs lay in a full and complete concession of Lord Durham's proposals <sup>6</sup>. Elgin realized that "My course in these circumstances is I think, clear and plain. It may be somewhat difficult to follow occasionally, but I feel no doubt as to the direction in which it lies. I give to my ministers all

<sup>1</sup> Dispatch of Earl Grey to Sir John Harvey, Lieutenant Governor of Nova Scotia 3 November 1846. Cf. Earl Grey *The Colonial Policy of the Administration of Lord John Russell* vol. 1 pp. 210-12.

<sup>2</sup> Letter of Lord Elgin to Lady Elgin. Cf. T. Walrond op cit., p. 41.

<sup>3</sup> Cf. pp. 151-2.

<sup>4</sup> There are half a dozen parties here standing on no principles and all intent on making political capital out of whatever turns up. —Dispatch of Lord Elgin to Earl Grey. Cf. T. Walrond op cit. p. 39.

<sup>5</sup> Dispatch of Elgin to Lord Grey. Cf. T. Walrond op cit. p. 38.

<sup>6</sup> I still adhere to my opinion that the real and effectual vindication of Lord Durham's memory and proceedings will be the success of a Governor General of Canada who works out his views of government fairly. —Ibid., p. 41.

constitutional support frankly and without reserve and the benefit of the best advice that I can afford them in their difficulties although I have never concealed from them that I intended to do nothing which may prevent me from working cordially with their opponents if they are forced upon me <sup>1</sup> Indeed it seemed to him a most essential feature of the administration that the ministers should move from the Opposition to the Government according to the will of the people <sup>2</sup> While however they were his ministers he said to them While you continue my advisers you shall enjoy my unreserved confidence and *en revanche* you shall be responsible for all the acts of government <sup>3</sup>

Elgin was soon given an opportunity to put his principles into practice He had endeavoured to strengthen the existing ministry by making various additions and alterations but all his efforts were in vain At the end of 1847 therefore Elgin dissolved the Assembly and appealed to the province In the ensuing elections the Government was defeated and when the House assembled a vote of censure was carried The Conservative ministry which had been formed by Lord Metcalfe <sup>4</sup> immediately resigned Elgin therefore sent for Robert Baldwin <sup>5</sup> and Louis Hippolyte Lafontaine <sup>6</sup> the leaders of the Opposition and asked them to form a new ministry I spoke to them in a candid and friendly tone told them that I thought there was a fair prospect if they were moderate and firm of forming an administration deserving and enjoying the confidence of Parliament that they might count on all proper support and assistance from me <sup>7</sup> The change of ministry was easily and quietly effected the members of both parties concurring in expressing their sense of the perfect fairness and impartiality with which Lord Elgin had conducted himself throughout these transactions <sup>8</sup>

The principle of responsible government had thus at last received full and complete expression in Canadian politics. The manner of the change of Government, in response to the wishes of the colonists expressed through the Assembly, and the spirit in which the governor played his part, made that occasion the beginning of a new era. This Baldwin-Lafontaine ministry is the first real responsible Cabinet in the history of Canada. It was all the more decisive because the change was made with the approval of the Whig Government in England.

"I received by the last mail your letter of the 22nd Jan., with the intelligence of the impending change in your Council. I confess I look to the effects of that change with no little anxiety, but I entirely concur with you as to the principles on which your course in these circumstances must be guided.

I can have no doubt that you must accept such a Council, as the newly elected Parliament will support, and that, however unwise as related to the real interests of Canada their measures may be, they must be acquiesced in until it shall pretty clearly appear that public opinion will support a resistance to them. There is no middle course between this line of policy and that which involves, in the last resort, an appeal to Parliament to overrule the wishes of the Canadians, and this I agree with both Gladstone and Stanley in thinking impracticable."<sup>1</sup> The only precaution Grey bade Elgin take was to register his dissent carefully in cases of disagreement. Having conceded the essential, however, it mattered little if the Colonial Secretary began to fear, a little, the consequences of his own daring. The concession came none too soon. So eager was the demand of the colonists for complete control of their own internal affairs that Elgin, who feared the effects of European revolutionism upon Canada, wrote in March 1848 that, if the change had not been effected, "there are not wanting here persons who might, under different circumstances have attempted, by seditious harangues, if not by overt acts, to turn the example of France and the sympathies of the United States to account."<sup>2</sup>

One of the most interesting aspects of this grant of responsible government is that so vital a change was effected so quietly and without any legislation. "The change to responsible government was one which required no legislative process

<sup>1</sup> Dispatch of Earl Grey to Lord Elgin, 22 February, 1848. Cf. Bell and Morrell *op cit.* p. 31.

<sup>2</sup> T. Walrond, *op cit.*, p. 53.



constitutional support, frankly and without reserve, and the benefit of the best advice that I can afford them in their difficulties although I have never concealed from them that I intended to do nothing which may prevent me from working cordially with their opponents if they are forced upon me ' <sup>1</sup> Indeed, it seemed to him a most essential feature of the administration that the ministers should move from the Opposition to the Government according to the will of the people <sup>2</sup> While however, they were his ministers he said to them ' While you continue my advisers you shall enjoy my unreserved confidence and *en revanche*, you shall be responsible for all the acts of government ' <sup>3</sup>

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to effect it and scarcely rendered necessary the change even of a few words in the governor's 'Commission and Instructions,' the organic instruments of colonial government"<sup>1</sup> Lord Durham had foreseen this possibility. He said that "this change might be effected by a single dispatch containing such instructions,"<sup>2</sup> and later he speaks of it as "a change which would amount simply to this, that the Crown would henceforth consult the wishes of the people in the choice of its servants"<sup>3</sup> Responsible government was never officially granted, and it "rested on nothing more than practice, its binding force on the action of the governor, who was subject, of course, to the possibility of his recall by the Imperial Government, on the one hand, and the rendering of his position untenable by the Legislature refusing to work with him on the other"<sup>4</sup> It is, therefore, quite true to say that, "the introduction of responsible government has been due to constitutional practice and usage, based on the practice in force in the Mother Country, and that, therefore, the responsible government of the Dominions rests on no fundamentally different basis from the responsible government of the United Kingdom It only needs to be added that, in some degree, there is a greater recognition of responsible government in colonial constitutions than in the British Constitution, but, as will be seen, that recognition goes far short of establishing the rule of responsible government"<sup>5</sup>

The grant of responsible government decided a principle, but many difficulties still remained Only years of experience could conclusively prove whether responsible government was really practicable in a dependency or not There was still a general conviction in England that responsible government was a graceful half way house to separation or republicanism<sup>6</sup> It was the great ambition of Lord Elgin to prove the fallacy of this idea<sup>7</sup> and it was fortunate that he was able to remain in

<sup>1</sup> Herman Merivale *Lectures on Colonies and Colonisation* p. 636

<sup>2</sup> Lord Durham's *Report on the Affairs of British North America*, ed Lucas vol ii p. 280

<sup>3</sup> Lord Durham's *Report* vol ii p. 285

<sup>4</sup> A. B. Keith *Responsible Government in the Dominions* vol i pt I, p. 59

<sup>5</sup> A. B. Keith *Responsible Government in the Dominions* vol i pt I, p. 59

Canada long enough to establish the new system on a real working basis. During the years of his administration he was able to show that Cabinet government in a dependency held none of the terrors which had been fondly imagined.<sup>1</sup> Many acute problems and crises were met and successfully overcome, entirely owing to the efficacious working of this system and to the valuable help and careful guidance of the governor-general.

One of the most immediate and most important changes attendant upon the introduction of the principle of responsible government into the colony was the alteration made in the position of the governor. "I readily admit that the maintenance of the position and due influence of the Governor is one of the most critical problems that have to be solved in the adaptation of Parliamentary Government to the Colonial System and that it is difficult to over estimate the importance which attaches to its satisfactory solution."<sup>2</sup> His former position of real head of the Government and the source of all patronage in the province was no longer possible. Elgin was, however, determined never to fall 'on the one side into the *néant* of mock majesty, or on the other into the dirt and confusion of local factions'.<sup>3</sup> Elgin felt very strongly that a governor general by acting with tact and judgment might

hope to establish a moral influence in the province, which will go far to compensate for the loss of power, consequent on the surrender of patronage to an executive responsible to the local Parliament'.<sup>4</sup> Lord Elgin fully realized that this influence could never be confirmed and extended "by evincing an anxious desire to stretch to the utmost constitutional principles in his favour, but, on the contrary, by the frank acceptance of the conditions of the parliamentary system".<sup>5</sup>

because it habituates the colonists to the working of a political mechanism which is both intrinsically superior to that of the Americans and more unlike it than our old Colonial system.—Dispatch of Lord Elgin to Earl Grey 17 December 1850 Cf T Walrond op cit p 122

<sup>1</sup> With one important truth I have laboured to impress them and I hope successfully. It is this that the faithful carrying out of the principles of Constitutional Government is a departure from the American model not an approximation to it and therefore a departure from republicanism in its only workable shape Cf T Walrond op cit p 120

<sup>2</sup> Dispatch of Lord Elgin of 18 December 1854 Cf T Walrond op cit, p 127

<sup>3</sup> Dispatch of Lord Elgin to Grey Cf T Walrond op cit, p 41

<sup>4</sup> Dispatch of Lord Elgin to Grey Cf T Walrond op cit, p 40

<sup>5</sup> Lord Elgin's Dispatch of 18 December 1854 to Earl Grey Cf T Walrond op cit, p 127-8

The governor would then occupy a "position above the strife of parties—holding office by a tenure less precarious than the ministers who surround him—having no political interests to serve but that of the community whose affairs he is appointed to administer—his opinion cannot fail when all cause for suspicion and jealousy is removed to have great weight in colonial councils, while he is set at liberty to constitute himself in an especial manner the patron of those higher and larger interests—such interests for example as those of education and of moral and material progress in all its branches—which unlike the interests of party, unite instead of dividing the members of the body politic" <sup>1</sup> He would cease to be, as had been the case so often in the past, the tool of the Tory Party and the object of dislike and distrust to the Radicals. He would occupy a more elevated position, exercising "an influence of suasion, sympathy, and moderation, which softens the temper, while it elevates the aims, of local politics" <sup>2</sup> Lord Metcalfe had opposed a complete application of this system because he had been convinced that the real authority of the governor would vanish completely <sup>3</sup> Lord Elgin provides the most positive answer to this continued cry "In Jamaica there was no responsible government, but I had not half the power I have here [i.e. in Canada] with my constitutional and changing cabinet" <sup>4</sup> Even on the viceregal throne of India he missed, at first at least, something of the influence and authority which had been his as constitutional Governor-General of Canada <sup>5</sup> These views met with full approval from Earl Grey, who was convinced that "the influence which can thus be exercised through a judicious governor is very considerable and may be of great service to the colonies. In the strife of parties which prevails in all free governments, the existence of an impartial authority serves to check the too

<sup>1</sup> Dispatch of Lord Elgin to Earl Grey 18 December 1854 Cf T Walrond, op cit pp 127-8

<sup>2</sup> Letter from Lord Elgin to Mr Cumming Bruce September 1852 Cf T Walrond op cit p 126

<sup>3</sup> Cf pp 138 seq 146 seq

<sup>4</sup> Dispatch of Lord Elgin to Earl Grey Cf T Walrond op cit p 125

<sup>5</sup> Perhaps I may see reason after a little more experience here to modify my opinion on these points. If I were to tell you what I now think of the relative amount of influence which I exercised over the march of affairs in Canada where I governed on strictly constitutional principles and with a free Parliament as compared with that which the Governor-General wielded in India when at peace you would accuse me of paradox.—Letter of Lord Elgin to Sir S Wood 9 December 1862 Cf T Walrond op cit., p 125

great violence with which political contests are sometimes carried on, and the experience and position of a minister of the Crown in this country enable him frequently to offer useful advice to the colonial legislatures" <sup>1</sup> The governor would, therefore, remain "the link which connects the Mother Country and the colony" <sup>2</sup>

Besides stabilizing the new position of the governor-general, Lord Elgin had also to educate the colonists in the proper constitutional forms and manners. The natural difficulties of this task were increased by the political crises which arose in the early years of his administration. In these crises the great questions, which naturally followed the grant of responsible government, namely, the relations of the colony with the Mother Country, the attitude of the governor to his ministry and to Downing Street, and the actual working of the system itself in relation to the great problems of State, were wisely met and successfully answered. The stress and trials of the early years of Elgin's administration offer the finest vindication of the principle of responsible government.

The question of the position of the French in the political life of the province, had continually recurred in the history of the colony. Elgin realized that until it had been definitely solved, an efficient administration of the province was impossible. He was fully aware of the peculiar position of the French solidarity in Canadian political life,<sup>3</sup> and he saw that responsible government would never have a fair chance until all racial antipathies were dispelled in common political action. In his efforts to achieve this end the governor deliberately turned his back on the policy of denationalization advocated by Lord Durham <sup>4</sup>. He saw that the efforts to suppress their

nationality only gave them greater vigour in opposing all the Government measures of whatever nature they might be and would perhaps succeed in driving them into the arms of the United States<sup>1</sup> Elgin moreover realized that the French formed one of the most naturally stable and conservative elements in North America and if the Government could win their trust and confidence and convince them that their national characteristics were recognized and respected their loyalty to the governor and the Crown which he represented would be deep and enduring<sup>2</sup> He began his policy of conciliation immediately At the opening of the newly elected Legislature in the beginning of 1848 Elgin announced that the Imperial Parliament had placed the French tongue on a level with English as an official language and for the first time the governor read his speech in both languages<sup>3</sup> At the same time he endeavoured to end the devastating political isolation of the French by reverting to the policy of Sir Charles Bagot<sup>4</sup> He abandoned the old method of endeavouring to detach influential men from the main body of the party and to incorporate them in a loyal Tory Party<sup>5</sup> but he aimed at wiping out the consciousness of a distinct origin in a general scheme of national development The linking of Baldwin the leader of the Moderate Reformers of Upper Canada and Lafontaine the leader of the French Party in political partnership was a step in this direction while the impartial and cordial manner in which the governor asked them to form a ministry won the trust and confidence of the French Canadians and ended their political exclusion The beneficial effects of this policy were noted by Earl Grey He declared that the French became on their side reconciled to the imperial authority which was

<sup>1</sup> I must confess that I for one am deeply convinced of the impolicy of all such attempts to denationalize the French. Generally speaking they produce the opposite effect from that intended causing the flame of national prejudice and animosity to burn more fiercely. But suppose them to be successful what would be the result? You may perhaps answer Americanize but depend upon it by methods of this description you will never anglicize the French inhabitants of the province.—Dispatch of Lord Elgin Cf. T. Walrond op cit p. 54

<sup>2</sup> Let them feel on the other hand that their religion their habits their prepossessions their prejudices if you will are more considered and respected here than in any other portions of this vast continent who will venture to say that the last hand which waves the British flag on American ground may not be that of a French-Canadian? —Dispatch of Lord Elgin Cf. T. Walrond op cit p. 54

<sup>3</sup> 11 and 12 Victoria cap. 36 Cf. *Fuller General Statistics* 1848 p. 36

<sup>4</sup> Cf. p. 160 seq.

<sup>5</sup> Cf. pp. 138 seq. 147 159-60

thus exercised, and proved themselves worthy of the confidence which had been placed in them by the loyalty and attachment which they manifested to the Crown. So soon and so decidedly were the healing effects of this policy experienced that, when the news of the French Revolution of 1848 reached the province, it occasioned no disturbance or alarm. In the state of public feeling and opinion which Lord Elgin found prevailing on his arrival in Canada little more than a year before, there can be no doubt that the intelligence of this most startling event would have produced most formidable excitement if not actual disturbance. Instead of this, there was the most perfect tranquillity and security."<sup>1</sup>

These great changes in the position of the French-Canadians and, also, in the principle of government, although so necessary and so essentially wise, did not meet with universal approval in the colony. The extreme wing of the Tory Party, the Family Compact, was accustomed to a monopoly of power and was loath to descend from its dominating position. It was, therefore, filled with the deepest and bitterest resentment against the governor who had transferred the administration of the province into the hands of its opponents, whom it called "traitors" and "rebels." The danger of its pretensions and ambitions is well illustrated in the passing of the Rebellion Losses Bill, which also throws considerable light on those problems incident upon the establishment of the new principle of government.

The story of the Bill is well known. Previous Governments had undertaken to provide compensation for loyalists who had suffered destruction of property or goods during the rebellion of 1837. Much money had already been spent in Upper Canada and, as a matter of justice, it was felt that similar measures should be taken in Lower Canada. In 1845, Lord Metcalfe had devised a scheme of compensation, and commissioners had been appointed to examine the claims and sift rebels from loyalists.<sup>2</sup> The matter did not originate under Elgin and the Reform ministry, but had long been recognized as a pressing need. The colonists, as a whole, desired it, and, if the measure was refused, Baldwin and Lafontaine could not remain in office.

<sup>1</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell*, vol. 1, p. 216.

<sup>2</sup> The commissioners recognized claims totalling £241,965 10s 5d, but were of the opinion that £100,000 would meet immediate needs.



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<sup>3</sup> 11 and 12 Victoria cap 56 Cf *Public General Statutes* 1848 p 56

<sup>4</sup> Cf p 160 seq

<sup>5</sup> Cf pp 138 seq 147 159-60

hands of others this would have been rebellion, but, with them, it was accounted exuberant patriotism.<sup>1</sup> While all the patronage of the province had been at their disposal, their devotion to the Government had been overwhelming, but, as privilege receded, their loyalty and imperialism died away also. When the "Annexation Movement" <sup>2</sup> was at its height, many of these so-called loyalists were found in alliance with the promoters of the movement. Every constitutional force, however, was on Elgin's side and, owing to his calm forbearance, the storm gradually died away without permanent injury to the province. The results, nevertheless, were of great importance.<sup>3</sup> Responsible government was vindicated. French Canada was convinced of the impartiality of the Government,<sup>4</sup> and was slowly won from discontented radicalism to that loyalty and conservatism which more truly expressed their national character. The Family Compact was dissolved in political extinction and soon ceased to be of importance. Already the faint beginnings of Liberal Conservatism, by which John A. Macdonald <sup>5</sup> brought such great benefits to the Dominion, could vaguely be distinguished.

The whole affair was fully discussed in the Imperial Parliament which, incidentally, shed considerable light on feeling in Great Britain and also hindered the settlement in Canada. Russell, in the House of Commons,<sup>6</sup> and Grey, in the Lords,<sup>7</sup> vigorously defended Elgin's policy and acknowledged the right of Canada to legislate on the matter. Gladstone, in a formidable attack upon the Government, declared that the measure was beyond the powers of the colonial Legislature and should have been reserved for Great Britain <sup>8</sup>. The Tories reproduced the Family Compact cry of compensating rebels <sup>9</sup>.

The governor realized that responsible government could not be conceded with one hand and be withdrawn with the other. Moreover, he believed that this Bill was a necessary expedient of justice for French Canada. Responsible government and the fate of the French were on trial. It is true that there was a danger that some public money might be given to rebels but that had to be risked. A Bill providing £90,000 for compensation was introduced by the ministry and was passed by a large majority in both Houses. A fierce opposition was offered by the Tories who resorted to all means in their power to prevent the passing of the measure.<sup>1</sup> Elgin was wildly petitioned either to refuse his consent or to reserve the Bill. But he would do neither. His ministers, who had introduced the Bill, were responsible and accountable for all their acts to the people. The measure was a purely Canadian one and so he refused to throw the burden of a decision upon the Imperial Parliament.<sup>2</sup> Elgin therefore assented to the Bill.

Disgraceful scenes of violence followed. The Parliament House was looted,<sup>3</sup> the governor "was himself attacked and insulted"<sup>4</sup> and mob law prevailed for a time.<sup>5</sup> In this crisis Elgin showed great wisdom and presence of mind.<sup>6</sup> He refused to call upon the aid of the military authorities and allowed self government to work out its own solution. The affair showed plainly the futility of extreme Tory views.<sup>7</sup> In the

<sup>1</sup> A great deal of excitement and bad feeling has been stirred in the province by the introduction of a measure by the Ministry for the payment of certain rebellion losses in Lower Canada. I trust that it will soon subside and that no enduring mischief will ensue from it but the Opposition leaders have taken advantage of the circumstances to work upon the feelings of Old Loyalists as opposed to Rebels of British as opposed to French and of Upper Canadians as opposed to Lower and thus to provoke from various parts of the province the expression of not very temperate or measured discontent.—Dispatch of Lord Elgin to Earl Grey 31 March 1849. Cf T Walrond op cit p 74.

<sup>2</sup> And in the second place by reserving the Bill I should only throw upon Her Majesty's Government or (as it would appear to the popular eye here) on Her Majesty herself a responsibility which rests and ought I think, to rest on my own shoulders.—Dispatch of Lord Elgin to Earl Grey. Cf T Walrond op cit p 78.

<sup>3</sup> On a sudden whether under the effect of momentary excitement or in pursuance of a plan arranged beforehand the mob proceeded to the House of Parliament where the members were still sitting and breaking the windows set fire to the building and burned it to the ground. By this wanton act public property of considerable value including two excellent libraries have been utterly destroyed.—Dispatch of Lord Elgin April 1849. Cf T Walrond op cit p 82.

<sup>4</sup> T Walrond op cit p 83.

<sup>5</sup> Ibid pp 85-6.

<sup>6</sup> Ibid p 94 seq.

<sup>7</sup> A strong condemnation of the aims of the Family Compact appeared in *The Times* 16 May 1849.

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<sup>1</sup> "Truly if ever rebellion stood upon a rickety pretence, it is the Canadian Tory rebellion of 1849." Cf T Walrond, *op. cit.*, p. 89

<sup>2</sup> Cf p. 172 seq

<sup>3</sup> One minor result was the fact that the seat of government was removed from Montreal and fixed, alternately, at Quebec and Toronto

<sup>4</sup> "Seven hundred thousand French reconciled to England—not because they are getting rebel money—I believe, indeed, that no rebels will get a farthing—but because they believe that the British Government is just."—Letter of Lord Elgin. Cf T Walrond, *op. cit.*, p. 98

<sup>5</sup> Cf p. 179

<sup>6</sup> 14 June, 1849 Cf Hansard *Parliamentary Debates*, 1849, vol. cvi, p. 225 seq

<sup>7</sup> Hansard, 1849 vol. cvi, p. 453 seq

<sup>8</sup> *Ibid* p. 189 seq

<sup>9</sup> "Did they expect that loyal men who had made enormous sacrifices and exertions to uphold the power of the Crown, would have their loyalty confirmed

and of a French domination<sup>1</sup> These debates led to the publication in *The Times* of a letter from Francis Hincks<sup>2</sup> which is of considerable importance It poured scorn on the inept arguments of the imperial statesmen and suggested that they ought fully to understand all aspects of the case before they attempted any criticisms All the friends of the province ought to rejoice that the population of French and English origin is cordially united instead of endeavouring to excite national jealousies by raising cries which have no foundation whatever<sup>3</sup> It was a polite hint from one of the leading Canadian statesmen that Great Britain should cease to interfere in colonial affairs

The trial of the principle of responsible government in the early years of Lord Elgin's administration was complete Besides a great internal upheaval it also had to bear the strain of a great imperial crisis The danger arose entirely out of the inconsistency and inconsideration of the policy of Great Britain and the colonists were quite justified in feeling injured and aggrieved<sup>4</sup> In 1843 the Canadian Corn Act<sup>5</sup> had been passed by the Imperial Parliament and it had given Canadian wheat and flour a preference in British markets Great quantities of wheat from the United States had therefore been imported into Canada and later re-exported as Canadian flour in order to gain the preference The Canadians had spent large sums of money in providing machinery to cope with this new and extensive trade<sup>6</sup> In 1846 however with no thought of the consequences the British Government abolished the

colonial preference and greatly reduced other tariffs<sup>1</sup> The result of this Free Trade movement upon the economic life of the province was particularly disastrous<sup>2</sup> The great hardships endured by the colonists at this time are vividly described by Lord Elgin "Peel's Bill of 1846 drives the whole of the produce down the New York channels of communication, destroying the revenue which Canada expected to derive from canal dues, ruining at once millowners, forwarders, and merchants The consequence is, that private property is unsaleable in Canada and not a shilling can be raised on the credit of the province We are actually reduced to the disagreeable necessity of paying all public officers from the governor general downwards in debentures which are not exchangeable at par. What makes it more serious is that all the prosperity, of which Canada is robbed, is transplanted to the other side of the lines, as if to make Canadians feel more bitterly how much kinder England is to the children who desert her than to those who remain faithful"<sup>3</sup> It was the greatest test that the Empire had ever had to face The Mother Country had practically ruined the colony, merely owing to the ignorance and inconsistency of her statesmen<sup>4</sup> Every argument for commercial prosperity seemed to point to a peaceful union with the United States "Our commercial classes are thoroughly disgusted and lukewarm in their allegiance"<sup>5</sup> and 'the conviction that they would be better off if they were 'annexed' is almost universal' <sup>6</sup>

So acute was the economic depression, and so widespread

<sup>1</sup> 9 and 10 Victoria caps 22 and 23 Cf *Public General Statutes* p 235 seq

<sup>2</sup> Prosperity in most of the Canadian towns and more especially in the capital has fallen fifty per cent in value within the last three years Three fourths of the commercial men are bankrupt owing to Free Trade a large proportion of the exportable produce of Canada is obliged to seek a market in the States It pays a duty of twenty per cent on the frontier How long can such a state of things be expected to endure? —Dispatch of Lord Elgin 1848-9 Cf T Walrond op cit p 70

<sup>3</sup> Dispatch of Lord Elgin Cf T Walrond op cit p 60

<sup>4</sup> I do not think you are blind to the hardships which Canada is now enduring but I must own I doubt much whether you fully appreciate their magnitude or are aware of how directly they are chargeable on Imperial legislation For I care not whether you be a Protectionist or a Free Trader it is the inconsistency of Imperial legislation and not the adoption of one policy rather than another which is the bane of the colonies —Dispatch of Lord Elgin Cf T Walrond op cit p 60

<sup>5</sup> Lord Elgin's Dispatch of 16 August 1848 Cf T Walrond op cit p 68

<sup>6</sup> Cf T Walrond op cit p 60

was the distrust of Britain, that a movement for annexation with the republic was openly advocated. The famous Annexation Manifesto<sup>1</sup> appeared in 1849 amid all the excitement concerning the Rebellion Losses Bill, and obtained nine hundred and sixty nine signatures, amongst which were those of two Queen's Councillors and several Justices of the Peace. The governor fully realized the danger of this movement. He dealt summarily with all manifestoes, and officials who had signed them were removed from office. With the keen political insight which characterized his whole career, Elgin saw that the discontent arose entirely from commercial reasons. 'Depend upon it our commercial embarrassments are our real difficulty. Political discontent, properly so called there is none.'<sup>2</sup> Nevertheless, he did not minimize the seriousness of the situation.<sup>3</sup> The repeal of the Navigation Acts<sup>4</sup> which restricted colonial trade and the signing of a Reciprocity Treaty with the United States<sup>5</sup> were essential measures for the rehabilitation of Canadian commerce. Lord Elgin persuaded the Imperial Parliament to effect the former in 1849,<sup>6</sup> but the latter was a more formidable task. With the greatest tact and unswerving persistency, however, Elgin pursued this end,<sup>7</sup> and was finally rewarded in 1854 with the most favourable commercial treaty the British Empire has ever made with the United States.<sup>8</sup> These measures were the means of restoring the shattered prosperity of the province and, under the governor's wise and careful guidance the annexation movement, which had appeared so formidable gradually died away,

<sup>1</sup> Egerton and Grant *Canadian Constitutional Development* pp 336-43

<sup>2</sup> Dispatch of Lord Elgin. Cf T Walrond op cit p 70

<sup>3</sup> If free navigation and reciprocal trade with the Union be not secured for us the worst I fear will come and at no distant date. —Dispatch of Lord Elgin. Cf T Walrond op cit p 71

<sup>4</sup> Cf p 3

<sup>5</sup> a special Treaty should be entered into with the States giving them the navigation of the St. Lawrence jointly with ourselves on condition that they admit Canadian produce duty free. —Elgin's Dispatch to Earl Grey. Cf T Walrond op cit p 61

<sup>6</sup> 12 and 13 Victoria cap 29. Cf *Public General Statutes* pp 179-88

<sup>7</sup> He [Le Lord Elgin] is the most thorough diplomat possible—never losing sight for one moment of his object and while he is chaffing Yankees and slapping them on the back he is systematically pursuing that object. Cf Mrs Oliphant *Life of Laurence Oliphant* vol 1 p 120 (Laurence Oliphant accompanied Elgin on his visit to the United States)

<sup>8</sup> Reciprocity Treaty with the United States signed 9 September 1854. Cf Bell and Morrell op cit pp 360-5

Indeed after a few years, Grey described the feeling in the colony as "in the highest degree satisfactory" <sup>1</sup>

The experience of these years, during which the colony was able to pass safely through such a period of trial and stress, offers a great vindication of the principle of responsible government. If that theory had tended towards separation from the Empire, this would have been the time when such a movement might best have been effected. But, indeed, the reverse is true. It was only the fact that the colony enjoyed complete political freedom that caused it to remain loyal to Great Britain. "I will make bold to affirm that so general is the belief that under the present circumstances of our commercial condition the colonists pay a heavy pecuniary fine for their fidelity to Great Britain, that nothing but the existence to an unwonted degree of political contentment among the masses has prevented the cry for annexation from spreading like wildfire throughout the province" <sup>2</sup>. It could no longer be doubted that responsible government and loyalty to the Empire were synonymous.

This was, unfortunately, not realized by British statesmen, owing to the change which the Free Trade movement had effected in the colonial policy of this country. The abolition of colonial preference and the lowering of tariffs was described by Earl Grey as amounting to nothing less than a revolution in an established system of policy, which would not fail to shock many long-received opinions and to bring about a great change in the relations hitherto subsisting between this country and the colonies <sup>3</sup>. For two centuries the interest of England in her dependencies had been very largely based upon a commercial monopoly, but, as is supremely indicated in the repeal of the Navigation Acts, <sup>4</sup> this conception of Empire was completely swept away by the adoption of Free Trade principles. With the severing of the old ties the question arose more acutely than before, of the use of retaining the colonies. If they were no longer to be of any commercial benefit to the Mother Country, it seemed to many in England that it would be better

<sup>1</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell* vol. i p. 233

<sup>2</sup> Dispatch of Lord Eglar to Lord John Russell Cf T Walrond op cit p. 103

<sup>3</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell* vol. i p. 6

<sup>4</sup> Cf p. 172



to abandon them, and thus be rid of a burden and an expense.<sup>1</sup> Such ideas were very widely held in the succeeding years. They were, however, vigorously repudiated by Earl Grey, who declared "I consider, then, that the British Colonial Empire ought to be maintained principally, because I do not consider that the nation would be justified in throwing off the responsibility it has incurred by the acquisition of this dominion, and because I feel that much of the power and influence of this country depends upon its having large colonial possessions in different parts of the world since no alliance between independent states can be so close and intimate as the connection which unites the Great British Empire."<sup>2</sup>

The vital, and yet eminently reasonable, faith of Earl Grey in the permanence of the Empire was shared by few of his colleagues. Even those who had no desire for separation and sincerely hoped for a permanent union, were continually assailed by doubts and fears as to the future connection of the colonies. Lord John Russell, with all his broad and enlightened views upon colonial government,<sup>3</sup> was not an exception. In 1850, Russell made an excellent speech<sup>4</sup> in the House of Commons upon colonial problems, expressing his complete agreement with those principles which Elgin and Grey had carried to such remarkable success.<sup>5</sup> "Lord John's speech on the colonies seems to have been eminently successful at home. It is calculated, too, I think, to do good in the colonies but for one sentence, the introduction of which I greatly deplore—the sting in the tail"<sup>6</sup> "The sting," which Elgin so deeply regretted, lay in an expression of the probability of the colonies one day becoming independent states. "I anticipate, indeed, with others," Russell declared, "that some

<sup>1</sup> *Saturday Review* 23 August 1862

<sup>2</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell* vol. 1 pp. 11-12

<sup>3</sup> Cf. pp. 97 seq. 105 seq.

<sup>4</sup> Cf. *Hansard* 1850 vol. cviii p. 535 seq.

<sup>5</sup> The next point I think is that in conformity with the policy on which you have governed your North American colonies you should as far as possible proceed upon the principle of introducing and maintaining political freedom in all your colonies they shall have full liberty in governing themselves and that while you are their representative with respect to all foreign concerns you wish to interfere no further in their domestic concerns than may be clearly and decidedly necessary to prevent a conflict in the colony itself.—Lord John Russell 8 February 1850 Cf. *Hansard* vol. cviii pp. 565-6

<sup>6</sup> Dispatch of Lord Elgin to Earl Grey 25 March, 1850 Cf. T. Walrond, *op. cit.* p. 115

of the colonies may so grow in population and wealth that they may say 'Our strength is sufficient to enable us to be independent of England. The link is now become onerous to us—the time is come when we think we can, in amity and alliance with England, maintain our independence.' I do not think that the time is yet approaching. But let us make them, as far as possible, fit to govern themselves—let us give them, as far as we can, the capacity of ruling their own affairs—let them increase in wealth and population and, whatever may happen, we of this great Empire shall have the consolation of saying that we have contributed to the happiness of the world."<sup>1</sup> In a spirit of high enthusiasm, Elgin answered these sentiments. "For one, I have never been able to comprehend why, elastic as our constitutional system is, we should not be able, now, more especially when we have ceased to control the trade of our colonies, to render the links which bind them to the British Crown at least as lasting as those which unite the component parts of the Union. One thing is, however, indispensable to the success of this, or any other system of colonial government. You must renounce the habit of telling the colonies that the colonial is a provisional existence. You must allow them to believe that without severing the bonds which unite them to Great Britain, they may attain the degree of perfection and of social and political development to which organized communities of free men have a right to aspire."<sup>2</sup> Not only did the governor, but the leading statesmen of Canada also, deplore Russell's expression of the probability of separation. Baldwin was especially perturbed, and was almost moved to tears. "He is a man of singularly placid demeanour, but he has been seriously ill so possibly his nerves are shaken—at any rate I have never seen him so much moved."<sup>3</sup> Together with his fervent confidence in the future of the Empire,<sup>4</sup> Elgin realized that some belief in its permanence was absolutely essential, and that faith, when it

is sincere, is always catching."<sup>1</sup> Therefore, during the whole of his administration it was his constant aim to impart "this faith" in the Empire "to all Canadian statesmen with whom I have been in official relationship since 1848, and to all intelligent Englishmen with whom I have come in contact since 1850."<sup>2</sup>

While providing an adequate settlement for all the larger points at issue, Elgin did not neglect the general and material interests of the province. He gave his attention to every side of colonial life. By his internal improvements and reforms he gave a practical demonstration that responsible government did not dissolve into anarchy, as many predicted, but provided a highly efficient and stable administration. The secularization of the clergy reserves was effected in 1854, and thus, at last, that difficult problem was settled for ever.<sup>3</sup> The seigniorial tenure, which, owing to the ever-growing commercial value of land, had become an anachronism and a burden, was abolished.<sup>4</sup> The establishment of a revised system of militia showed the growing consciousness of a self-governing capacity. The Legislative Council was made elective,<sup>5</sup> and the Assembly "also passed laws extending and improving the system of municipal organization, which is now very complete in the western division of the province and is beginning to be brought into operation in the eastern division also."<sup>6</sup> All the old questions which had so bitterly divided the colonists in the past, were slowly dying away.<sup>7</sup> The beginning of a new political life was also accompanied by a rapid increase in economic

<sup>1</sup> Elgin's letter to Mr. Cumming Bruce of September 1852. Cf. T. Walrond, op. cit., p. 126.

<sup>2</sup> Elgin's Letter to Mr. Cumming Bruce of September 1852. Cf. T. Walrond, op. cit., p. 126.

<sup>3</sup> Cf. T. Walrond, op. cit., p. 134 seq.

<sup>4</sup> Cf. Prof. Munro: *Documents relating to the Seigniorial Tenure in Canada*, p. cxii.

<sup>5</sup> This did not prove an advantage and, after Confederation, the Dominion returned to a nominated Second House.

<sup>6</sup> Earl Grey: *The Colonial Policy of the Administration of Lord John Russell*, vol. i, p. 235.

<sup>7</sup> "There are, of course, those party divisions which must be expected to exist in all free governments; but there has been a remarkable abatement of the former bitterness of party spirit, and still more so of the animosities arising from the differences of a national origin, while there is every indication that all parties are becoming daily more sensible of the advantages they derive from the form of their Government and from their connection with the British Empire." Cf. Earl Grey: *The Colonial Policy of the Administration of Lord John Russell*, vol. i, pp. 233-4.

prosperity,<sup>1</sup> after the storms of 1848 and 1849 "The District Councils have been assisted in adopting effective measures for improving their means of communication, both by ordinary roads and by railroads\* and of the former many have already been made, and steps have been taken which there is every reason to believe will ensure the speedy construction of various important lines of railway"<sup>2</sup>

Thus Lord Elgin safely guided Canada through a most difficult and dangerous period of transition. When he left the colony in December 1854, the principle of responsible government was firmly established and acknowledged by all "Lord Elgin has solved one of the most difficult problems of statesmanship. He has been able successfully and satisfactorily to administer, amidst many difficulties, a colonial government over a free people. This is an easy task where the commands of a despot are law to his obedient subjects but not so in a colony where the people feel that they possess the rights and privileges of native-born Britons"<sup>3</sup> During the administration of Lord Elgin, the past troubles were definitely ended and the foundations of a new era were laid<sup>4</sup> A wider and happier life was opening out before the eyes of the Canadian people

<i>Gross Revenue Customs</i>	<i>Total Net Revenue of the Province</i>	<i>Gross Rev of the Welland Canal</i>	<i>Gross Rev of the St. Lawrence Canals</i>	<i>Value of Imports Customs</i>	<i>Value of Exports Customs</i>	<i>Year</i>
£	£	£ s. d.	£ s. d.	£	£	
422 215	511,993	27 410 2 6	8 394 20 2	2 520,869		1846
474 613	506,816	30,342 27 8	25 575 24 6	2 550 978		1847
335,022	377,645	29,064 7 5	24 339 14 3	3 191 318	2 521 599	1848
446,547	515 431	34 742 18 8	27 853 24 8	5,003 599	2 498 775	1849
613 694	704 254	37,925 17 7	20 395 0 20	4 245 527	2 990,423	1850
757,459	824 184	50,160 6 8	21 822 22 2	5,358 697	5 242 180	1851

## CHAPTER VII

### THE CONSEQUENCES OF SELF GOVERNMENT IN CANADA

THE grant of responsible government ended one era in the history of Canada and heralded the approach of another. The controversy concerning the principle upon which the colony ought to be governed was definitely concluded. In the settlement of this great question however, lay the seeds of other momentous and far reaching changes. The final adjustment of the old vexatious problems<sup>1</sup> was accompanied by the creation of new difficulties and dangers, the solution of which decided the course of the future development of Canada. These changes which were the direct results of the grant of self government, may be divided into two main groups, namely, those which only affected the colony and those which exercised an influence over the Empire as a whole.

The beginning of a new political life was first seen in the modifications which appeared in the party system. Lord Elgin had noticed that except upon the doctrine of responsible government, there was a remarkable lack of principle separating the various parties.<sup>2</sup> In the past, the Tories had strongly opposed any grant of self government, while the Reformers had, just as eagerly advocated the introduction of such a measure. A definite choice had therefore been presented to the constituents and there had been a principle at stake sufficiently important to make the differences between the parties necessary and clear. Once, however the great step had been taken, it was recognized as irrevocable and passed for ever out of the realms of political controversy. The fierce battles over constitutional theories, which all governors had deplored were at an end. Moreover, during the years from 1847 until 1854 the questions which had formerly divided the colonists found final and adequate solution.<sup>3</sup> Indeed when Lord Elgin resigned the foundations of the old parties had

<sup>1</sup> Cf p 176

<sup>2</sup> Cf p 159  
173

<sup>3</sup> Cf pp 173 176 seq

been entirely removed and new divisions were gradually appearing. In Upper Canada there were four parties: a few extreme Tories, the Moderate Conservatives, a Liberal Party, and the Independent Radicals, called "Clear Grits". The representatives from Lower Canada were divided into two sections, a so-called Liberal Party, which was really Conservative in policy, and a small number of Red Republicans, called "Les Rouges". No great principle divided these different parties, and they all, except perhaps the Clear Grits and the Rouges, presented the same views upon trade, internal development, and imperial relations. The tendency, therefore, arose for parties to amalgamate in order to obtain a majority to carry on the government. From that time the co-operation of various shades of opinion was a great feature of Canadian politics and was a direct result of the grant of responsible government. The movement culminated in the formation, by John A. Macdonald,<sup>1</sup> of the Liberal Conservative Party, which bestowed such great benefits upon the Dominion.

Since there were no fundamental differences between the various parties they usually obtained an equal number of representatives in the House of Assembly. Indeed so evenly were they matched that the fate of a ministry might depend upon the vote of one member. Thus Government succeeded Government, only to fall a prey to its own lack of a sufficient majority, and to the unprincipled use by its various opponents.

<sup>1</sup> Sir John Alexander Macdonald was born in Glasgow in 1815 but was brought to Canada in 1820. He was educated at the Royal Grammar School at Kingston and was called to the Bar of Upper Canada in 1836. In 1844 he was elected to represent Kingston in the Legislative Assembly of Canada and he sat continuously for Kingston from that time until his death in 1891. From 1847-8 he was Receiver General in the Draper administration. In 1854 he was mainly instrumental in forming a coalition of parties which later resulted in the creation of the Liberal Conservative Party. In 1856 he was the leader of the Upper Canadians in the Taché-Macdonald ministry and in 1857 he became Prime Minister. In 1858 he was defeated in the House but after an interval of four days he resumed office. In 1862 he was again defeated but a deadlock ensued that finally resulted in a Great Coalition which led to Confederation. In 1867 Macdonald became first Prime Minister of the Dominion, a post which he held except for the Mackenzie administration, 1873-8, until his death in 1891. Macdonald had not a high code of political ethics and he at times raised opportunism almost to the level of a political principle, yet it may be doubted whether a statesman of stricter views could have guided Canada through that difficult period as successfully as he did. In the art of managing men he was unrivalled and there were some points such as the safeguarding of law and order and the continuance of the British connection on which he knew no compromise. In many ways the Dominion of Canada to-day is the creation of his statesmanship.

of casual combinations and alliances. Within ten years ten ministries held office. Four ministries were defeated in three years and two general elections provided no working majorities.<sup>1</sup> The decade following 1854 saw the final and complete breakdown of the old party system. Although, after 1867, two parties continued to offer themselves for election, they were essentially the same in policy and a change of Government merely meant a change in personnel. These conditions formed the basis of the long predominance in power of the Liberal Conservative Party<sup>2</sup> which, to a very large extent moulded the Canada of to-day.

As the collapse of government by parties was a direct result of the grant of responsible government, so also was the movement which finally led to Confederation. It is not possible here, to trace the stages of the growth nor even the policy of the instigators of that movement. The connection, however, between self government and Confederation in Canada was that the former made the latter inevitable. In the first place, in 1864 it was obvious that the existing party system was impracticable. All parties had in turn endeavoured to govern the country and each in turn had failed through lack of steady and adequate support. A general election was unlikely to effect any improvement in the situation, and the only hope of the province seemed to lie in a frank combination of opposing forces.<sup>3</sup> The gentlemen who compose this Government had for many years been engaged in political hostilities to such an extent that it affected even their social relations. But the crisis was great the danger was imminent and the gentlemen who now form the present Administration found it to be their duty to lay aside all personal feelings to sacrifice in some degree their position, and even to run the risk of having their

<sup>1</sup> This is briefly yet adequately set forth in *An Historical Geography of the British Dominions* vol. v pt. II Canada by H. E. Egerton pp. 233-5 Cf. also p. 181 footnote 3 of this study.

<sup>2</sup> The Liberal-Conservative Party remained in office from 1867 until 1891 except for an interval of five years from 1873 to 1878.

<sup>3</sup> That for the purpose of carrying on the negotiations and settling the details of the proposed legislation [i.e. towards Confederation] a Royal Commission shall be issued composed of three members of the Government and three members of the Opposition of whom Mr. Brown shall be one and the Government pledge themselves to give all the influence of the Administration to secure to the said Commission the means of advancing the great object in view. —A Confidential Memorandum read during the debates on Confederation Cf. *Debates in the Canadian Parliament on the Subject of the Confederation of the British North American Provinces* p. 253.

motives impugned, for the sake of arriving at some conclusion that would be satisfactory to the country in general" <sup>1</sup> All the leading statesmen in the province, therefore, came together in 1864 to discuss and carry out a scheme of Confederation, which was too great to be the object of petty party strife and which required the support of all parties to make it successful

The movement towards Confederation can also be approached from another direction. The administration of Lord Elgin had done much to satisfy the political aspirations of the French-Canadians and had seen their nationalism lose its most awkward features <sup>2</sup> Self government, however, created a new difficulty because the independence, bred by responsibility, only served to quicken their sense of racial distinction. The question assumed two phases. In the first place, there was a natural rivalry and clash of interests between the two peoples which manifested itself in the consideration of the most ordinary measures of colonial prosperity. In these circumstances, a convention arose to meet the needs of this involved and dangerous situation. The alliance of Baldwin and LaFontaine showed that both British and French interests could equally be considered by the same Government, and furnished a precedent for successive ministries, each of which took its name from an alliance of English and French party leaders <sup>3</sup> Furthermore, it was accepted, though the principle never received official sanction, that in questions affecting the interests of the French-Canadians, a majority from Lower Canada should be obtained, and, in the affairs of the British, one from Upper Canada. Moreover, a ministry was expected to prove its stability by maintaining a majority from both Upper

<sup>1</sup> Speech of John A. Macdonald in the Canadian Parliament 6 February 1865. Cf. *Debates in the Canadian Parliament* p. 26

<sup>2</sup> Cf. pp. 165-9

<sup>3</sup> The ministries in office during this period are as follows

1847-51 Baldwin-LaFontaine administration  
 1852 MacNab-Morin administration  
 1855 MacNab-Taché administration  
 1856 Taché-Macdonald administration  
 1858 Brown-Dorion administration (four days)  
 1858 Macdonald-Cartier administration  
 1862 J. Sandfield Macdonald-Sicotte administration  
 1862 Reorganized after defeat  
 1863 J. Sandfield Macdonald-Dorion administration  
 1863 Taché-Macdonald administration  
 1864 Great Coalition of all parties



and Lower Canada. Nothing, for example, so strengthened Elgin's position in the tumult arising from the Rebellion Losses Bill<sup>1</sup> as the fact that the Government had a majority in both provinces. Yet nearly all the Cabinet ministers and all the governors general strongly opposed the acknowledgment of the double majority as an accepted constitutional principle. Its application was, therefore, most irregular, and that added considerably to the general confusion in the government of the colony.

While complications were continually resulting from the use and abuse of this principle, a greater agitation arose owing to the demand for a revision of the parliamentary representation. The Act of Union had enacted that both provinces should have an equal number of representatives in the House.<sup>2</sup> At the time of the Union the balance had been in favour of Upper Canada but owing to the greater increase in the population of the Upper Province it now swayed heavily in the other direction. George Brown<sup>3</sup> the leader of the Clear Grits began a vigorous campaign demanding that the representation of the people in Parliament should be based upon population without regard to a separating line between the Upper and Lower Provinces. Such an appeal was irresistible to the Upper Canadians while nothing was better calculated to rouse into wild agitation the quiescent feelings of French nationalism. The French Canadians felt that Durham's attempt at

<sup>1</sup> Cf p 167 seq.

<sup>2</sup> Cf pp 102-4.

<sup>3</sup> George Brown was born in 1818 in Alloa, Scotland and was educated in Edinburgh. In 1838 he emigrated to the United States but in 1843 he moved to Toronto. There he founded a newspaper the *Banner* which was succeeded in 1844 by the *Globe*. The *Globe* set a new pace in Canadian journalism and before long it had earned for itself a political influence in Upper Canada such as no other journal has ever possessed. In 1851 he was elected to the Legislative Assembly as Reform member for the county of Kent. In the Assembly he played at first a lone hand but his advocacy of representation by population and his campaign against a French Canadian and a Roman Catholic domination eventually made him the most outstanding Reform leader in Upper Canada. From 2 August to 6 August 1858 he formed the Brown-Dorion administration. In 1864 he joined the Great Coalition as the chief representative of the Reformers. In 1865 he resigned and took little part in politics afterwards. He still however remained a strong political force in the Dominion. He was regarded as the power behind the Mackenzie administration of 1873-8 and he was certainly the extra parliamentary leader of the Liberals who in 1871 drove Sandfield Macdonald from office in Ontario. Brown was a great journalist and a dominating personality. As a politician his actions were not always consistent with his pretensions but he was capable as in 1864 of wise and statesmanlike views. He died on 9 May 1880 from a bullet wound inflicted by a discharged employee.

denationalization was being renewed with great vigour. The Act of Union, which had been previously regarded as an act of tyranny, was now jealously defended as a charter of liberties. The French were convinced that the existence of their customs and traditions was being attacked, while the British felt that, unless representation was given according to the population, they would be getting less than justice and would be governed by a French minority. The only means of protecting the prejudices of the French and, at the same time, of administering justice to the British, seemed to lie in the looser and freer union of Confederation.<sup>1</sup>

Thus the impetus towards a Union of all the British Provinces in North America, which forms the foundation of political life in Canada to-day, was occasioned by the grant of local autonomy. There are, of course, other paths leading to that great event—the desire of Great Britain for a more compact and closely united colony: the movement in the Maritime Provinces for a local federation the dream of a Canadian nationality, foreshadowed by Lord Durham<sup>2</sup> and cherished by a few colonists. But, in the end, it was no idealistic vision or imperial design that urged Canadian statesmen into action. It was simply the chaotic state of the colony. "Then men of all parties and all shades of politics became alarmed at the aspect of affairs. They found that such was the opposition between the two sections of the province, such was the danger of impending anarchy in consequence of the irreconcilable difference of opinion with respect to representation by population between Upper and Lower Canada, that unless some solution was arrived at, we should suffer from a succession of weak governments—weak in numerical support, weak in force, and weak in power of doing good. All were alarmed at this state of affairs. We had election after election—we had ministry after ministry—with the same result. Parties were so equally balanced that the vote of one member might decide the fate of the Administration and the course of legislation for

<sup>1</sup> In speaking of the need of Confederation, George Brown declared "Here is a people, composed of two distinct races, speaking different languages, with religious, social, municipal, and educational institutions totally different with sectional hostilities of such a character as to render government, for many years, well nigh impossible with a constitution so unjust, in the view of one section, as to justify any resort to enforce a remedy." Cf. *Debates in the Canadian Parliament*, 8 February, 1865, p. 85.

<sup>2</sup> Cf. p. 89.

a year or a series of years"<sup>1</sup> Confederation, therefore, came as the only adequate means of administering equal justice to French and British and, at the same time of ending the utter confusion of the old party system. A new life opened out before the people of Canada, a noble inheritance, which was free from petty strife and local divisions. This was, perhaps, the greatest of all the results of the grant of responsible government.

Having glanced at the most important consequences of self government in the domestic affairs of the colony, it is interesting to notice its bearing upon the imperial connection. As far as the legal and constitutional aspect of the case is concerned the answer is easy. The grant of local autonomy greatly diminished the formal bonds which united the colony to the Mother Country. The influence of Great Britain upon the affairs of Canada had been very largely exercised by means of the instructions and admonitions of the Colonial Secretary to the governor. Now the position and authority of the representative of the Crown had been greatly changed just as Lord Elgin and Baldwin had predicted. The considerable yet indirect influence which Elgin had had upon the affairs of the colony<sup>2</sup> had been the result of his wise statesmanship and of the trust that he inspired rather than from the possession of any legal or constitutional powers. The governor ceased to be a free agent responsible only to the Imperial Parliament. During these years the nearest approach to independence was in 1858, when Sir Edmund Head<sup>3</sup> refused to grant George Brown's request for a dissolution and in 1862 when Lord Monck<sup>4</sup> passed over the more influential M. H. Foley,<sup>5</sup> and sent for John Sandfield Macdonald<sup>6</sup> to form a ministry. The governor no longer stood in the centre of affairs. After 1854 the formal and non-committal dispatches of the governors form a remarkable contrast to the interesting discursive and informative letters which had passed before. The governor was quickly attaining the position of the monarch in England. He

<sup>1</sup> John A. Macdonald. Cf. *Debates in the Canadian Parliament* 6 February 1865 p. 26.

<sup>2</sup> Cf. pp. 163-5.

<sup>3</sup> Sir Edmund Head was Governor General of Canada from 1854 to 1861.

<sup>4</sup> Lord Monck was Governor General of British North America from 1861 to 1867 and of the Dominion of Canada from 1867 to 1868.

<sup>5</sup> W. Stewart Wallace *Dictionary of Canadian Biography* p. 142.

<sup>6</sup> *Ibid.* pp. 249-50. (Sandfield Macdonald should not be confused with John A. Macdonald.)

ceased to attend the meetings of the Executive Council<sup>1</sup> which now assumed the position and importance of the English Cabinet. This meant that the active leadership of Canadian affairs was passing from the governor to the prime minister—from British to Canadian hands. The constitutional powers of the governor declined, and his real influence became moral and personal.

Apart from his viceregal duties, the direct action of the Crown was asked, during these years, in one unfortunate incident, namely, the selection of a capital. Torn by party dissensions, the choice had been left for the queen. The unwisdom and awkwardness of the step was apparent when her choice was almost repudiated by the Assembly. To repudiate the town that she had selected was branded as disloyalty. George Brown, however, stated the case clearly and truthfully. "Do you think Her Majesty cares a straw where the seat of the Government of Canada is fixed? People prate about our insulting the Crown because we speak out what nine-tenths of the whole people think: but do you ever hear from such people anything about insulting the people? If ever an insult was given to a people, it was when the Legislature and Government of Canada declared that the Canadian people were unable to settle for themselves where their seat of government ought to be, and that they must go to a Colonial Minister, three thousand miles off, who never had his foot on Canadian soil, to settle it for them under backstairs advice. I voted against that reference. I used every influence to prevent so ungracious a task being thrown on the Imperial Government: I urged that they should not act upon that reference. . . . I yield to no man in loyalty to the Crown of England and in humble respect and admiration of Her Majesty. But what has this purely Canadian question to do with loyalty? It is a most dangerous and ungracious thing to couple the name of Her Majesty with an affair so entirely local and one as to which the sectional feelings of the people are so excited."<sup>2</sup> Brown thus gives a definite expression of the new feeling of Canadian nationality which was gradually growing up as a result of self-government. Confidently, the people of Canada felt that they could, alone, manage their own affairs, and were

<sup>1</sup> Sir Charles Bagot also ceased to attend the meetings of his Council after he had fully conceded the principle of responsible government. Cf p 137.

<sup>2</sup> Speech of George Brown on the Policy of the Brown Donnan Administration Cf Alexander Mackenzie *Life and Speeches of the Hon George Brown* pp 271-2

resolved to brook interference from no other authority. The governor was to be offered genuine and profound respect, but he was no longer to interfere in colonial concerns. He was to remain the official and ornamental, rather than real head of affairs—the symbol of the unity of Empire.

The formal bonds of Empire were also loosened in other directions especially in the departments of commerce and defence. In previous years Canada had always accepted the position that the Imperial Government should regulate the tariffs of the Empire. A fine distinction had been attempted between sea borne trade and the inland commerce with the United States but generally speaking the imperial regulation of foreign trade had been recognized. Parallel with the growth of self government colonial business instincts and self confidence had developed apace. Men looked for increased prosperity in a protective tariff, and the Government, which was in need of more revenue, was willing to accede to these demands. In 1859 therefore, although Great Britain had definitely pledged herself to Free Trade Alexander Galt<sup>1</sup> the finance minister increased the duties on manufactured articles which incidentally, affected certain English concerns. The Chamber of Commerce and Manufactures of Sheffield sent a protest to the Duke of Newcastle, then Secretary of State for the Colonies which was couched in no measured terms.<sup>2</sup> In sending this memorial to Canada, Newcastle remonstrated with the colonists upon the foolishness of their policy and hinted at disavowal.<sup>3</sup> Galt thereupon drew up a report<sup>4</sup> in which he

<sup>1</sup> W Stewart Wallace op cit pp 151-2

<sup>2</sup> It cannot be regarded as less than indecent and a reproach that while for fifteen years the Government the greatest statesmen and the Press of this country have been not only advocating but practising the principles of Free Trade the Government of one of her most important colonies should have been advocating monopoly and protection. We conceive that Her Majesty's Government has a right to demand that what revenue is needed shall be raised in some other way than that which is opposed to the acknowledged commercial policy of the Imperial Government and destructive of the interests of those manufacturing towns in Great Britain which trade with Canada.—A Memorial to His Grace the Duke of Newcastle Secretary of State for the Colonies from the Chamber of Commerce and Manufactures of Sheffield 1 August 1859 Cf A B Keith *Selected Speeches and Documents on British Colonial Policy* vol II pp 53-7

<sup>3</sup> Dispatch of the Duke of Newcastle to Sir Edmund Head the governor 13 August 1859 Cf Bell and Morrell *Select Documents on British Colonial Policy* pp 367-8 Egerton and Grant *Canadian Constitutional Development* pp 348-9 A B Keith op cit vol II pp 51-2

<sup>4</sup> Memorandum of Alexander Galt 25 October 1859 Cf A B Keith op cit, vol II pp 57-83

vigorously defended the policy of his Government, and expressed his surprise that the colony of Canada should be condemned unheard, merely upon the representations "of a provincial town in England, professedly actuated by selfish motives."<sup>1</sup> Because there was a suggestion on the part of the Colonial Secretary of disavowal, Galt felt it was "the duty of the Provincial Government distinctly to state what they consider to be the position and rights of the Canadian Legislature."<sup>2</sup> Provincial claims for the control of their trade and tariffs were then put forward. They are of such great importance in the constitutional theory of the Empire as well as in its commercial relations that a full quotation from Galt's report may not be amiss. "Respect to the Imperial Government must always dictate the desire to satisfy them that the policy of this country is neither hastily nor unwisely formed; and that due regard is had to the interests of the Mother Country as well as of the province. But the Government of Canada, acting for its Legislature and people, cannot, through those feelings of deference which they owe to the Imperial authorities, in any manner, waive or diminish the right of the people of Canada to decide for themselves both as to the mode and extent to which taxation shall be imposed. The Provincial Ministry are, at all times, ready to afford explanations in regard to the acts of the Legislature to which they are party; but subject to their duty and allegiance to Her Majesty, their responsibility in all general questions of policy must be to the Provincial Parliament, by whose confidence they administer the affairs of the country; and in the imposition of taxation it is so plainly necessary that the administration and the people should be in accord, that the former cannot admit responsibility or require approval beyond that of the local Legislature. Self-government would be utterly annihilated if the views of the Imperial Government were to be preferred to those of the people of Canada. It is, therefore, the duty of the present Government distinctly to affirm the right of the Canadian Legislature to adjust the taxation of the people in the way they deem best, even if it should, unfortunately, happen to meet the disapproval of the Imperial Ministry. Her Majesty cannot be advised to disallow such acts, unless her advisers are prepared to assume

<sup>1</sup> Memorandum of Alexander Galt, 25 October, 1859. Cf. A. B. Keith, op. cit., vol. ii, p. 59.

<sup>2</sup> Memorandum of Alexander Galt, 25 October, 1859. Cf. A. B. Keith, op. cit., vol. ii, p. 59.

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<sup>3</sup> Dispatch of the Duke of Newcastle to Sir Edmund Head the governor 23 August 1859. Cf Bell and Morrell *Select Documents on British Colonial Policy* pp 367-8. Egerton and Grant *Canadian Constitutional Development* pp 348-9. A B Keith op cit vol ii pp 51-2.

<sup>4</sup> Memorandum of Alexander Galt 25 October 1859. Cf A B Keith op cit, vol ii pp 57-83.

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the administration of the affairs of the colony, irrespective of the views of its inhabitants. The Imperial Government are not responsible for the debts and engagements of Canada. They do not maintain its judicial, educational, or civil service, they contribute nothing to the internal government of the country, and the Provincial Legislature, acting through a ministry directly responsible to it, has to make provision for all these wants, they must necessarily claim and exercise the widest latitude as to the nature and extent of the burthens to be placed upon the industry of the people " <sup>1</sup> This remarkable document sets forth in the plainest terms the determination of the Canadians to exercise the most complete control over their own affairs. Their claims were not denied by the Imperial Parliament. Later, Newcastle admitted he was wrong and, although more correspondence took place upon the economic aspect of the affair, no further attempt was made to control the commercial activities of the colony. From that time the Canadian Government has possessed supreme authority over its trade and tariffs.

With the full concession of self-government and trade autonomy, the question of Canadian defence came into prominence. Earl Grey had considered that the colonists should contribute something towards the military expenses of the Empire, and some of the garrisons in Canada had been reduced <sup>2</sup> The beginning of the American Civil War precipitated a crisis. With the alienation of the North owing to the supposed British sympathies for the South and, also, owing to the Trent Affair, <sup>3</sup> there was some danger of war. The newspapers in the United States were particularly violent <sup>4</sup> In 1862 therefore,

the Canadian Government prepared a very moderate Militia Bill for the defence of Canada. The Assembly rejected it. A panic of abuse arose in England concerning Canadian selfishness and blindness to danger. "England cannot afford to retain the colony if it is merely a vulnerable point of attack, while it contributes little or nothing to the available force of the Empire"<sup>1</sup>. The verdict of the *Saturday Review* was reiterated with greater vehemence in *The Times*<sup>2</sup>. This attitude was much resented in Canada, where many pointed out that the colony should not be expected to bear the whole expense of a war which would have been caused entirely by British diplomacy. The rejection of the militia proposals does not seem to have arisen from a desire to check the military plans of the Empire, but from the natural development of the principle of self government. In receiving local autonomy, Canada, and not Britain, was in future to decide the defence of the colony, and Canadian defence, from being a part of imperial policy, had now become a detail in the strife of domestic parties. As Canada adopted measures for her own defence, the military connection between Great Britain and her colony, which had formerly been an important link in the unity of the Empire,<sup>3</sup> was considerably weakened and loosened. So far, it would appear that the Tories were correct in their

<sup>1</sup> *Saturday Review* 26 July 1862

<sup>2</sup> "Let not the Canadians on the other hand believe that they have in their present connection with Great Britain a sufficient protection against invasion without any trouble to defend themselves. Such an opinion is founded on a mistake both of our power and our will. It is not in our power to send forth from this little island a military sufficient to defend the frontier of Canada against the numerous armies which have learnt arms and discipline in the great school of the present civil war. Our resources are unequal to so large a concentration of force on a small point. Our empire is too vast, our population too small, our antagonist too powerful. But if we had the power it is quite certain that we should not have the will. Opinion in England is perfectly correct that, in the connection between the Mother Country and the colony the advantage is infinitely more on the side of the child than of the parent. We no longer monopolize the trade of the colonies, we no longer job their manufactures. We cannot hope from them any assistance for defending our shores while we are bound to assist in protecting theirs. We cannot even draw from this very colony of Canada reasonably fair treatment for our manufactures, which are taxed twenty five per cent on their value to increase a revenue which the colonies will not apply to our or even their own defence. I Canada will not fight to protect its independence from foreign invasion unless England bears the greater part of the burden of their own defence. It will be the case if they separate from us. This will be the case if they separate from us."—Leading article in *The Times* 6 June 1862

the administration of the affairs of the colony, irrespective of the views of its inhabitants. The Imperial Government are not responsible for the debts and engagements of Canada. They do not maintain its judicial, educational, or civil service; they contribute nothing to the internal government of the country, and the Provincial Legislature, acting through a ministry directly responsible to it, has to make provision for all these wants, they must necessarily claim and exercise the widest latitude as to the nature and extent of the burthens to be placed upon the industry of the people."<sup>1</sup> This remarkable document sets forth in the plainest terms the determination of the Canadians to exercise the most complete control over their own affairs. Their claims were not denied by the Imperial Parliament. Later, Newcastle admitted he was wrong and, although more correspondence took place upon the economic aspect of the affair, no further attempt was made to control the commercial activities of the colony. From that time the Canadian Government has possessed supreme authority over its trade and tariffs.

With the full concession of self-government and trade autonomy, the question of Canadian defence came into prominence. Earl Grey had considered that the colonists should contribute something towards the military expenses of the Empire, and some of the garrisons in Canada had been reduced.<sup>2</sup> The beginning of the American Civil War precipitated a crisis. With the alienation of the North owing to the supposed British sympathies for the South and, also, owing to the Trent Affair,<sup>3</sup> there was some danger of war. The newspapers in the United States were particularly violent.<sup>4</sup> In 1862, therefore,

<sup>1</sup> Memorandum of Alexander Galt, 25 October, 1859. Cf. A. B. Keith, *op. cit.*, vol. II, pp. 59-61.

<sup>2</sup> Earl Grey *The Colonial Policy of the Administration of Lord John Russell*, vol. I, pp. 43-9, 260-5.

<sup>3</sup> The Trent Affair was occasioned by the action of Captain Charles Wilkes, U.S.N., who intercepted at sea the British mail steamer *Trent*, bound from Havana to St. Thomas, and took off two Confederate commissioners accredited to France, Senators Mason and Slidell, who were among her passengers. They were taken to Boston and imprisoned in Fort Warren, but were released on 1 January, 1862, on the demand of the British Government, and allowed to proceed to Europe. The affair created intense excitement, but Secretary Seward finally accepted Britain's demand as an adoption of the American doctrine which denied the right of search and on that ground replied that the prisoners would be cheerfully liberated.

<sup>4</sup> "The only noticeable novelty of the past week has been the extraordinary virulence of the attacks of the Federal journals upon Canada."—*The Times*, 21 January, 1862.

the Canadian Government prepared a very moderate Militia Bill for the defence of Canada. The Assembly rejected it. A panic of abuse arose in England concerning Canadian selfishness and blindness to danger. 'England cannot afford to retain the colony if it is merely a vulnerable point of attack, while it contributes little or nothing to the available force of the Empire' <sup>1</sup>. The verdict of the *Saturday Review* was reiterated with greater vehemence in *The Times* <sup>2</sup>. This attitude was much resented in Canada where many pointed out that the colony should not be expected to bear the whole expense of a war which would have been caused entirely by British diplomacy. The rejection of the militia proposals does not seem to have arisen from a desire to check the military plans of the Empire, but from the natural development of the principle of self government. In receiving local autonomy, Canada, and not Britain was in future to decide the defence of the colony, and Canadian defence from being a part of imperial policy, had now become a detail in the strife of domestic parties. As Canada adopted measures for her own defence the military connection between Great Britain and her colony which had formerly been an important link in the unity of the Empire <sup>3</sup> was considerably weakened and loosened.

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If Canada will not fight to protect its independence from foreign invasion neither will England. If they are to be defended at all they must make up their minds to bear the greater part of the burden of their own defence. This will be the case if they separate from us. This will be the case if they remain by us. —Leading article in *The Times* 6 June 1862

<sup>3</sup> Cf p 10

affairs after 1852. Thus the brilliant little band, which had saved the Empire in the past, was no longer at hand to lighten the general gloom that surrounded all imperial aspirations.<sup>1</sup> The faith which Lord Elgin had so diligently tried to implant both in the colony and the Mother Country,<sup>2</sup> was conspicuously lacking in Great Britain during the fifties and sixties of the last century. With the loosening of the bonds which had formerly united the Empire, all leading statesmen confidently looked forward to the day when the colonies would become independent states.

One element however, the most important of all, had not been taken into account by imperial statesmen. This was the feelings and sentiments of the Canadian people. Whatever privileges and authority the Mother Country might possess, they would be entirely valueless if the colonists themselves were determined upon separation. Fortunately for the future of the Empire, the grant of self government had had, by no means the same effect upon opinion in Canada as in England. The lowest point that Canadian loyalty ever reached except in that period of open rebellion was at the time of the widespread resentment against the Mother Country which culminated in the Annexation Manifesto.<sup>3</sup> This formidable movement, however, died away, leaving no traces or bitterness, and amid the benefits bestowed by the grant of responsible government, the attachment of the colony to the parent state grew stronger than ever. During the conferences upon Confederation, the determination to remain an integral part of the British Empire was firmly maintained by all Canadian statesmen. The desire to remain connected with Great Britain and to retain our allegiance to Her Majesty was unanimous. Not a single suggestion was made that it could by any possibility, be for the interest of the colonies or of any section or portion of them, that there should be a severance of our connection.<sup>4</sup> There were perhaps a few extremists largely settlers from the United States who would have welcomed a union with that country or the establishment of a republic, but they were few in number and of no importance.

<sup>1</sup> In direct contrast to his later opinions Disraeli made at this time his famous utterance that the colonies were 'a millstone round our necks.'

<sup>2</sup> Cf. I P. 175-6.

<sup>3</sup> Cf. P. 172.

<sup>4</sup> John A. Macdonald. Cf. *Debates in the Canadian Parliament* 6 February 1865 p. 34.

The general and highly predominant feeling in Canada, as expressed by the three largest sections of the community, was one of steady loyalty and attachment to the Empire

After the recognition of their rights and of their position in the State by Lord Elgin, the French-Canadians were very content, and also devotedly loyal to the Empire. Their difficulties, which had played such a great part in the movement towards Confederation,<sup>1</sup> had been a purely colonial matter and had had no reflection upon the imperial connection. With the return of Louis Joseph Papineau in 1847, a few extremists, hostile to Great Britain, had gathered round him, but they were utterly discredited and entirely without influence in the province. The real sentiments of the French Canadians were expressed by their leader, Sir George Etienne Cartier:<sup>2</sup>

"The French-Canadian population is profoundly loyal and it has no desire to throw itself into the republican vortex close by. It desires to remain faithful to the old monarchical flag of Great Britain, that flag which tyranny has never been able to overthrow, the flag which symbolizes true liberty. Canadians do not seek what certain people call political independence, for they are convinced if they desire really to become great they have only to continue that firm union with the Mother Country in order to share in her power, her prestige, and her glory. The Canadians desire to be a power upon the American continent, to make their influence felt on the Atlantic on the East and the Pacific on the West, and, to realize their hopes and ambitions, they are convinced that they must have the support and influence of Great Britain."

It might well have been expected that the extreme Radicals, or Clear Grits as they were called, would have been republicans or annexationists at heart. The reverse, however, was true,

<sup>1</sup> Cf. p. 181 seq.

<sup>2</sup> Sir George Etienne Cartier was born in 1814 and was called to the Bar of Lower Canada in 1835. He followed Papineau in the rebellion of 1837 and was obliged to fly to the United States. He returned to Canada, however, in 1838. In 1848 he was elected to the Legislative Assembly, and he sat there continuously till his death in 1873. He quickly rose to prominence and was a leading figure in this troubled period of Canadian politics. He played a conspicuous part in the movement towards Confederation and it was largely owing to his efforts that the French accepted that settlement. He was regarded as John A. Macdonald's chief lieutenant and he was a politician of indomitable energy and good executive ability. From 1858 until his death in 1873 his hold over the French-Canadians was absolute and unchallenged.

<sup>3</sup> Speech of Sir George Etienne Cartier during his visit to England, 1868-9 (C. L. John Boyd: *Sir George Etienne Cartier*, p. 300).

owing to the influence of their leader, George Brown.<sup>1</sup> Brown, the great political rival of John A. Macdonald, was in many ways a most remarkable man, and, as editor of the *Globe*, he exercised more influence over his fellow-countrymen than any one else of his day. This great influence was wielded entirely in favour of maintaining the connection with Great Britain. In his speeches on Confederation, he refers to the scheme, continually, as a means of drawing the colony nearer to the parent state, and declares that all the instigators of the movement were "avowing hearty attachment to the British Crown—all earnestly deliberating how we shall best extend the blessings of British institutions—how a great people may be established on this continent in close and hearty connection with Great Britain."<sup>2</sup>

The leader of the third great body of opinion in Canada was John A. Macdonald.<sup>3</sup> Of the loyalty of this great statesman, who dominated Canadian politics for so many years, it is hardly necessary to speak. In 1844, in his first political address he said "I, therefore, need scarcely state my firm belief that the prosperity of Canada depends upon its permanent connection with the Mother Country, and that I shall resist to the utmost any attempt (from whatever quarter it may come) which may tend to weaken that union."<sup>4</sup> During the whole of his career he was sincerely and faithfully loyal to the imperial ideal, endeavouring to make the bonds of union real and effective, so that, in the face of the world the British Empire would, with all its autonomous and component parts, present a firmly united front.<sup>5</sup> Macdonald kept in close touch with imperial politics, and made many journeys to England, where he made a great impression upon the leading statesmen and officials.<sup>6</sup>

<sup>1</sup> Cf p 182

<sup>2</sup> George Brown Cf *Debates in the Canadian Parliament* 8 February 1865 Cf p 85

<sup>3</sup> Cf p 179

<sup>4</sup> George R Parkin *Sir John A Macdonald* p 12

<sup>5</sup> Although the people of this country are fully aware of the horrors of war—should a war arise unfortunately between the United States and England and we pray that it never may—they are still ready to encounter all perils of that kind for the sake of the connection with England. There is not an adverse voice not one adverse opinion on that point. We all feel the advantages we derive from our connection with England.—John A. Macdonald Cf *Debates in the Canadian Parliament* 6 February 1865 p 44

<sup>6</sup> Macdonald was the ruling genius and spokesman and I was greatly struck by his power of management and adroitness.—*The Letters of Lord Blachford* (Under Secretary of State for the Colonies 1860–71) ed by George Eden Marinden p 301

In his last election appeal he declared "A British subject I was born—a British subject I will die"<sup>1</sup>

Nevertheless although so intensely loyal to Great Britain Macdonald always carefully guarded Canadian interests. He had no desire to exalt the imperial ideal at the expense of colonial rights. He had nothing in common with the old Tory loyalty which had meant a complete dependence upon Downing Street. Indeed Macdonald's patriotism struck a new note of its own which was the direct result of autonomy. He had fully absorbed the new self-consciousness, the new feeling of Canadian nationality which was growing up in the colony as a result of self government. Thus although so essentially an imperialist he viewed all crises from an entirely Canadian point of view. His ideal of Empire lay in the fullest autonomous development of its component parts which should still be firmly united by the bonds of amity, mutual benefit and common institutions.

The colonies are now in a transitory state. Gradually a different colonial system is being developed—and it will become year by year less a case of dependence on our part and of overruling protection on the part of the Mother Country, and more a case of healthy and cordial alliance. Instead of looking upon us as a merely dependent colony, England will have in us a friendly nation—a subordinate but still a powerful people—to stand by her in North America in peace or war. The people of Australia will be another such subordinate nation. And England will have this advantage if her colonies progress under the new colonial system as I believe they will, that although at war with all the rest of the world she will be able to look to the subordinate nations in alliance with her again to meet the whole world in arms as she has done before.<sup>2</sup>

Thus it was not in Great Britain but in Canada that the true vision of the Empire of the future was seen. While in England imperialistic aspirations were regarded with doubt and suspicion, self government had fostered in Canada a higher and nobler conception of the bonds of union. The preservation of the Empire during the fifties and sixties of last century was due rather to the spontaneous loyalty of the Canadians than to any preconceived desire or plan on the part of British statesmen. In direct contrast to his former statement that

<sup>1</sup> George R. Parkin, *op. cit.* p. 311.

<sup>2</sup> John A. Macdonald, *Ct. Debates on the Canadian Parliament* 6 February 1863, p. 44.



the colonies were "a millstone round our necks," Disraeli, in 1872, gave utterance to this opinion "Well, what has been the result of this attempt during the reign of liberalism for the disintegration of the Empire? It has entirely failed. But how has it failed? Through the sympathy of the colonies with the Mother Country. They have decided that the Empire shall not be destroyed and in my opinion no Minister in this country will do his duty who neglects any opportunity of reconstructing, as far as possible, our Colonial Empire, and of responding to those distant sympathies which may become the source of incalculable strength and happiness to this land" <sup>1</sup> The truth of Lord Elgin's statement that "faith when it is sincere, is always catching," <sup>2</sup> was proved to the utmost Canadian loyalty was rewarded by the growth of a kindred feeling in England <sup>3</sup> At last the Mother Country understood that people of British stock can only be ruled under the strictest principles of self government, that once granted this autonomy can neither be limited nor guided as Lord Durham suggested, but that, when fully and generously conceded it does not necessarily lead to separation but may form the foundation of a firmer, more useful and more lasting bond of union. The truth of Edmund Burke's statement was at last realized—that the true links of Empire lie "in the close affection which grows from common names from kindred blood from similar privileges and equal protection. These are the links which, though light as air, are as strong as links of iron" <sup>4</sup> The Imperial Commonwealth of Greater Britain was realized to be a free union of self governing nations together pursuing their mutual aims and interests, and offering a respectful allegiance to the British Crown.

Upon the success of the grant of self government to Canada was based the lofty conception of Empire which arose in the

<sup>1</sup> Speech of Disraeli on 24 June 1872 at the Crystal Palace Cf Arthur Page *Imperialism and Democracy* pp 21-2

<sup>2</sup> Cf p 175 6

<sup>3</sup> It is however only on one condition that our colonial empire can be maintained. The links which once bound together its provinces are worn out. The fact must be admitted and practically accepted by our statesmen and our people. Yet there are not wanting materials of mutual self interest and goodwill out of which new links may yet be forged not on the principle of protection on the one side and obedience on the other but of a federative fellowship of sister nations who claiming a common origin cherish our traditions profess our faith and are not ashamed to recognize the spectre of our Queen.—*Saturday Review* 23 August 1862

<sup>4</sup> Hansard *Parliamentary Debates* 1775 vol xviii p 534

later nineteenth and early twentieth centuries. The results of Canadian autonomy led to the true partnership of Empire which was expressed in the Imperial Conferences of the early years of the present century and which has successfully borne the strain of the greatest war that the world has ever seen. At the first meeting of the Imperial Conference of 1911 Mr Asquith said: "In the early Victorian era there were two rough and ready solutions for what was regarded with some impatience by British statesmen of that day as the Colonial Problem. The one was centralization—the government that is except in relatively trivial matters of all the outlying parts of the Empire from an office in Downing Street. The other was disintegration—the acquiescence in perhaps the encouragement of a process of successive livings off by which without the hazards or embitterments of coercion each community as it grew to political manhood would follow the example of the American Colonies and start an independent and sovereign existence of its own. After seventy years' experience of Imperial evolution it may be said with confidence that neither of these theories commands the faintest support to-day either at home or in any part of our self-governing Empire. We were saved from their adoption—some people would say by Providence—or (to adopt a more flattering hypothesis) by the political instinct of our race. And just in the proportion as centralization was seen to be increasingly absurd so has disintegration been felt to be increasingly impossible."

For us to-day and throughout this Conference there is, I believe, one spirit and one purpose—to make the Empire in all its activities and throughout all its parts a more complete and effective instrument for the furtherance of our corporate unity and strength along the old well-trodden but ever lengthening road of British liberty.<sup>1</sup> In spite of the alarming signs of disintegration in South Africa, Egypt and India we trust that this noble conception of Empire—a free union of self-governing nations—will continue to unite the British stock in all parts of the world for the greater glory of the British nations and for the peace of mankind.

<sup>1</sup> *Minutes of the Proceedings of the Imperial Conference of 1911 presented to both Houses of Parliament by the Command of His Majesty* pp. 22-3.

## APPENDICES

### APPENDIX A

#### THE BOUNDARY BETWEEN UPPER AND LOWER CANADA

IN 1791, by an Order-in Council, in connection with the passing of the Constitutional Act, Canada was divided into an Upper and Lower Province, the dividing line being thus defined "To commence at a stone boundary on the north bank of the Lake St Francis, at the cove west of Pointeau Boudet in the limit between the township of Lancaster and the Seigneurie of New Longueuil, running along the said limit in the direction of north, thirty-four degrees west to the western angle of the said Seigneurie of New Longueuil, thence along the north-western boundary of the Seigneurie of Vaudreuil running north, twenty-five degrees east until it strikes the Ottawa River, to ascend the said river into Lake Tomiscaming, and from the head of the said lake by a line drawn due north until it strikes the boundary line of Hudson Bay, including all the territory to the westward and southward of the said line, to the utmost extent of the country, commonly called or known by the name of Canada"—Quoted by Houston *Constitutional Documents of Canada* p 274

### APPENDIX B

#### THE TEN RESOLUTIONS, 1837

(1) THAT since the 31st day of October, in the year 1832, no provision has been made by the Legislature of the province of Lower Canada, for defraying the charges of the administration of justice, and for the support of the civil government, within the said province and that there will on the 10th day of April now next ensuing, be required for defraying in full the charges aforesaid to that day, the sum of £142,160 14s 6d

(2) That at a session of the Legislature of Lower Canada, holden at the city of Quebec, in the said province, in the months of September and October, 1836, the Governor of the said province, in compliance with His Majesty's commands, recommended to the attention of the House of Assembly thereof, the estimates for the current year, and also the accounts, showing the arrears due in respect of the civil government, and signified to the said House, His Majesty's confidence that they would accede to the application which he had been commanded to renew, for payment of the arrears due on account of the public service, and for the funds necessary to carry on the civil government of the province

(3) That the said House of Assembly, on the 3rd day of October, 1836, by an address to the Governor of the said province, declined to vote a supply for the purposes aforesaid, and by the said address, after referring to a former address of the said House to the Governor of the said province, declared that the said House persisted, amongst other things, in the demand of an elective Legislative Council and in demanding the repeal of a certain Act, passed by the Parliament of the United Kingdom in favour of the North American Land Company and by the said address, the said House of Assembly further adverted to the demand made by the House of the free exercise of its control over all the branches of the Executive Government, and by the said address, the said House of Assembly further declared, that it was incumbent on them, in the present conjuncture, to adjourn their deliberations until His Majesty's Government should, by its acts, especially by rendering the second branch of the Legislature conformable to the wishes and wants of the people, have commenced the great work of justice and reform, and created a confidence, which alone could crown it with success

(4) That in the existing state of Lower Canada, it is undesirable to make the Legislative Council of that province an elective body, but that it is expedient that measures be adopted for securing to that branch of the Legislature a greater degree of public confidence

(5) That while it is expedient to improve the composition of the Executive Council in Lower Canada, it is undesirable to subject it to the responsibility demanded by the House of Assembly of that province

(6) That the legal title of the North American Land Company

to the land holden by the said company, by virtue of a grant from His Majesty, under the public seal of the said company by the Act for that purpose made, in the fourth year of His Majesty's reign, ought to be maintained inviolate

(7) That it is expedient, that so soon as the provisions shall have been made by law, to be passed by the Legislature of the said province of Lower Canada, for the discharge of the lands therein from feudal dues and services, and for removing any doubts as to the incidents of the tenure of land in fee and common socage in the said province, a certain Act made and passed in the sixth year of the reign of his late Majesty, King George IV, commonly called the "Canada Tenures Act," and so much of another Act passed in the third year of his said late Majesty's reign, commonly called the "Canada Trade Act," as relates to the tenures of land in the said province, should be repealed, saving nevertheless to all persons all rights in them vested under or by virtue of the said recited Acts

wherein the said provinces have a common interest and it is expedient that the Legislature of the said provinces respectively be authorized to make provision for the joint regulation and adjustment of such their common interest

Cf Hansard *Parliamentary Debates*, 1837, vol xxxvi pp 1304-6

## APPENDIX C

### THE "BANEFUL DOMINATION" LETTER

BRYANSTONE SQUARE,

March 29th

My dear Sir

I lately received files of the *Vindicator* and *Reformer* journals and am pleased to observe that the electors of the county of York continue firm and consistent in their support to you and that you manifest the same determined spirit of opposition to abuse and misrule

The Government and the majority of the Assembly appear to have lost the little portion of common sense and prudence which society in general now possess and they sacrifice the greatest of public principles in gratifying a paltry and mean revenge against you

Your triumphant election on the 16th and ejection from the Assembly on the 17th must hasten the crisis which is fast approaching in the affairs of the Canadas and which will terminate in independence and freedom from the baneful domination of the mother country and the tyrannical conduct of a small and despicable faction in the colony

I regret to think that the proceedings of Mr Stanley which manifest as little knowledge of mankind as they prove his ignorance of the spirit and liberal feelings of the present generation encourage your enemies to persevere in the course they have taken But I confidently trust that the high minded people of Canada will not in these days be overawed or cheated of their rights and liberties by such men Your cause is their cause—your defeat would be their subjugation Go on therefore I beseech you and success—glorious success—must inevitably crown your joint efforts

Mr. Stanley must be taught that the follies and wickedness of Mr. Pitt's Government in the commencement of the French Revolution cannot be repeated now, either at home or abroad, without results very different from that which then took place. The proceedings between 1772 and 1782 in America ought not to be forgotten, and to the honour of the Americans, and for the interest of the civilized world, let their conduct and result be ever in view.

I remain,

Yours sincerely,

JOSEPH HUME.

P.S. The people in Lower Canada are taking the means of forcing their affairs on the government and will, I hope, succeed

## APPENDIX D

PROCLAMATION OF LORD DURHAM ON 9 OCTOBER, 1838  
EXPLAINING THE REASONS FOR HIS RESIGNATION

### PROCLAMATION

IN conformity with one of its provisions, I have this day proclaimed the Act 1 and 2 Victoria c 112, entitled "An Act for indemnifying those who have issued or acted under certain parts of a certain Ordinance, made under cover of an Act passed in the present session of Parliament, entitled 'An Act to make temporary provision for the government of Lower Canada'"

I have also to notify the disallowance by Her Majesty of the Ordinance 2 Victoria c 1 entitled "An Ordinance to provide for the security of the Province of Lower Canada."

I cannot perform these official duties without at the same time informing you, the people of British America, of the course which the measures of the Imperial Parliament and Legislature make it incumbent on me to pursue. The mystery which has hitherto too often, during the progress of the most important affairs, concealed from the people of these colonies the intentions, the motives, and the very actions of their rulers appears to me one of the main causes of the numerous

errors of the Government and of the general dissatisfaction of the people Undesirable at any time, such concealment on the part of one entrusted with the supreme authority in the present crisis of your affairs would be most culpable and pernicious With a people, from whom I have had so many and such gratifying proofs of warm and confiding attachment, I can have no reserve and my implicit reliance on your loyalty and good sense will justify me in making you acquainted with what it most imports you to know

It is the more necessary for me thus to act because, when I first entered upon this government, I explained to you in a proclamation issued immediately on my arrival on these shores the nature of the powers vested in me and the principles on which it was my intention to exercise them Now, therefore that I am about to return to England I feel it to be my bounden duty to state to you, as fully and as frankly the reasons which have induced me to lay down powers rendered inadequate to the carrying into effect these or any other principles of government

I did not accept the government of British North America without duly considering the nature of the task which I imposed on myself or the sufficiency of my means of performing it When Parliament concentrated all legislative and executive powers in Lower Canada in the same hands it established an authority which in the strictest sense of the word was despotic This authority Her Majesty was graciously pleased to delegate to me I did not shrink from assuming the awful responsibility of power thus freed from constitutional restraints, in the hope that, by exercising it with justice with mildness and with vigour I might secure the happiness of all classes of the people and facilitate the speedy and permanent restoration of their liberties But I never was weak enough to imagine that the forms by which men's rights are wisely guarded in that country, where freedom has been longest enjoyed best understood and most prudently exercised could be scrupulously observed in a society almost entirely disorganized by misrule and dissension I conceive it to be one of the chief advantages of my position that I was enabled to pursue the great ends of substantial justice and sound policy free and unfettered Nor did I ever dream of applying the theory or practice of the British Constitution to a country whose constitution was suspended where all representative government was annihilated and the people



deprived of all control over their own affairs, where the ordinary guarantees of personal rights had been in abeyance during a long subjection to martial law and a continued suspension of the Habeas Corpus, where there neither did exist, nor had for a long time existed, any confidence in the impartial administration of justice in any political case

To encourage and stimulate me in my arduous task I had great and worthy objects in view. My aim was to elevate the province of Lower Canada to a thoroughly British character, to link its people to the sovereignty of Britain by making them all participants in those high privileges, conducive at once to freedom and order, which have long been the glory of Englishmen. I hoped to confer on a united people a more extensive enjoyment of free and responsible government and to merge the petty jealousies of a small community and the odious animosities of origin in the higher feelings of a nobler and more comprehensive nationality.

To give effect to these purposes it was necessary that my powers of government should be as strong as they were extensive—that I should be known to have the means of acting as well as judging for myself, without a perpetual control by distant authorities. It were well indeed, if such were the ordinary tenure of government in colonies and that your local administration should always enjoy so much of the confidence of those with whom rests the ultimate decision of your affairs that it might ever rely on one being allowed to carry out its policy to completion, and on being supported in giving effect to its promises and its commands. But in the present posture of your affairs it was necessary that the most unusual confidence should accompany the delegation of a most unusual authority, and that, in addition to such great legal powers, the Government here should possess all the moral force that could be derived from the assurance that its acts would be final and its engagements religiously observed.

It is not by stinted powers or a dubious authority that the present danger can be averted, or the foundation laid of a better order of things.

I had reason to believe that I was armed with all the power which I thought requisite by the commissions and instructions under the Royal Sign Manual, with which I was charged as Governor General and High Commissioner, by the authority vested in me by my Council, by the Act of the Imperial

Legislature, and by the general approbation of my appointment which all parties were pleased to express. I also trusted that I should enjoy throughout the course of my administration all the strength which the cordial and steadfast support of the authorities at home can alone give to their distant officers, and that even party feeling would refrain from molesting me whilst occupied in maintaining the integrity of the British Empire.

In these just expectations, I have been painfully disappointed. From the very commencement of my task, the minutest details of my administration have been exposed to incessant criticism, in a spirit which has evinced an entire ignorance of the state of this country, and of the only mode in which the supremacy of the British Crown can here be upheld and exercised. Those who have, in the British Legislature, systematically depreciated my powers, and the Ministers of the Crown, by their tacit acquiescence therein, have produced the effect of making it too clear that my authority is inadequate for the emergency which called it into existence. At length, an Act of my Government, the first and most important which was brought under the notice of the authorities at home, has been annulled, and the entire policy of which that Act was a small, though essential part, has thus been defeated.

The disposal of the political prisoners was from the first a matter foreign to my mission. With a view to the most easy attainment of the great objects contemplated, that question ought to have been settled before my arrival. But, as it was essential to my plans for the future tranquillity and improvement of the colony that I should commence by allaying actual irritation, I had, in the first place, to determine the fate of those who were under prosecution, and to provide for the present security of the province by removing the most dangerous disturbers of its peace. For these ends the ordinary tribunals, as a recent trial has clearly shown, afforded me no means. Judicial proceedings would only have agitated the public mind afresh, would have put in evidence the sympathy of a large portion of the people with rebellion, and would have given to the disaffected generally a fresh assurance of impunity for political guilt. An acquittal in the face of the clearest evidence, which I am justified in having anticipated as inevitable, would have set the immediate leaders of the insurrection at liberty, absolved from crime, and exalted in the eyes of their

deluded countrymen as the innocent victims of an unjust imprisonment and a vindictive charge. I looked on these as mischiefs which I was bound to avert by the utmost exercise of the powers entrusted to me. I could not—without trial and conviction—take any measures of a purely penal character but I thought myself justified in availing myself of an acknowledgment of guilt, and adopting measures of precaution against a small number of the most culpable or most dangerous of the accused. To all the rest I extended a complete amnesty.

Whether a better mode of acting could have been devised for the emergency is now immaterial. This is the one which has been adopted: the discussion which it at first excited had passed away, and those who were once most inclined to condemn its leniency had acquiesced in, or submitted to it. The good effects which must necessarily have resulted from any settlement of this difficult question had already begun to show themselves. Of these the principal were—the general approval of my policy by the people of the United States, and the subsequent cessation of American sympathy with any attempt to disturb the Canadas. This result has been most gratifying to me, inasmuch as it has gone far towards a complete restoration of that good will between you and a great kindred nation, which I have taken every means in my power to cultivate, and which I earnestly entreat you to cherish as essential to your peace and prosperity.

It is also very satisfactory to me to find that the rectitude of my policy has hardly been disputed at home and that the disallowance of the Ordinance proceeds from no doubt of its substantial merits, but from the importance which has been attached to a supposed technical error in the assumption of a power which, if I had it not, I ought to have had.

The particular defect in the Ordinance which has been made the ground of its disallowance, was occasioned, not by my mistaking the extent of my powers but by my reliance on the readiness of Parliament to supply their insufficiency in case of need. For the purpose of relieving the prisoners from all apprehensions of being treated as ordinary convicts, and the loyal inhabitants of the province from the dread of their immediate return, words were inserted in the Ordinance respecting the disposal of them in Bermuda, which were known to be inoperative. I was perfectly aware that my powers extended to landing the prisoners on the shores of Bermuda, but no

Legislature and by the general approbation of my appointment which all parties were pleased to express I also trusted that I should enjoy throughout the course of my administration all the strength which the cordial and steadfast support of the authorities at home can alone give to their distant officers and that even party feeling would refrain from molesting me whilst occupied in maintaining the integrity of the British Empire

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farther. I knew that they could not be forcibly detained in that island without the co-operation of the Imperial Legislature. That co-operation I had a right to expect, because the course I was pursuing was pointed out in numerous Acts of the Imperial and Provincial Legislatures, as I shall have occasion most fully to prove. I also did believe that, even if I had not the precedents of these Acts of Parliament, a Government and a Legislature, anxious for the peace of this unhappy country and for the integrity of the British Empire, would not sacrifice to a petty technicality the vast benefits which my entire policy had already in a large measure secured. I trusted they would take care that a great and beneficent purpose should not be frustrated by any error, if error there was, which they could rectify, or the want of any power which they could supply. I trusted finally, that if they found the Ordinance inoperative, they would give it effect; if illegal, they would make it law. This small aid has not been extended to me, even for this great object; and the usefulness of my delegated powers expires with the loss of that support from the supreme authority which could alone sustain it.

The measure now annulled was but part of a large system of measures which I promised when I proclaimed the amnesty. When I sought to obliterate the traces of recent discord, I pledged myself to remove its causes, to prevent the revival of a contest between hostile races, to raise the defective institutions of Lower Canada to the level of British civilization and freedom, to remove all impediments to the course of British enterprise in this province, and promote colonization and improvement in the others, and to consolidate those general benefits on the strong and permanent basis of a free, responsible, and comprehensive Government.

Such large promises could not have been ventured without a perfect reliance on the unhesitating aid of the supreme authorities. Of what avail are the purposes and promises of a delegated power whose acts are not respected by the authority from which it proceeds? With what confidence can I invite co-operation, or impose forbearance, whilst I touch ancient laws and habits, as well as deep-rooted abuses, with the weakened hands that have ineffectually essayed but a little more than the ordinary vigour of the police of troubled times?

How am I to provide against the immediate effects of the disallowance of the Ordinance? That Ordinance was intimately

connected with other measures which remain in unrestricted operation. It was coupled with Her Majesty's proclamation of amnesty, and, as I judged it becoming that the extraordinary Legislature of Lower Canada should take upon itself all measures of vigorous precaution and leave to Her Majesty the congenial office of using her royal prerogative for the sole purpose of pardon and mercy, the Proclamation contained an entire amnesty, qualified only by the exceptions specified in the Ordinance. The Ordinance has been disallowed, and the Proclamation is confirmed! Her Majesty having been advised to refuse her assent to the exceptions, the amnesty exists without qualification. No impediment, therefore, exists to the return of the persons who had made the most distinct admission of guilt, or who had been excluded by me from the province on account of the danger to which its tranquillity would be exposed by their presence, and none can now be enacted without the adoption of measures alike repugnant to my sense of justice and policy. I cannot recall the irrevocable pledge of Her Majesty's mercy. I cannot attempt to evade the disallowance of the Ordinance by re-enacting it under the disguise of an alteration of the scene of banishment or the penalties of unauthorized return. I cannot, by a needless suspension of the Habeas Corpus, put the personal liberty of every man at the mercy of the Government, and declare a whole province in immediate danger of rebellion, merely in order to exercise the influence of a vague terror over a few individuals.

In these conflicting and painful circumstances it is far better that I should at once and distinctly declare my intention of desisting from the vain attempt to carry my policy and system of administration into effect with such inadequate and restricted means. If the peace of Lower Canada is to be again menaced, it is necessary that its Government should be able to reckon on a more cordial and vigorous support at home than has been accorded to me. No good that may not be expected from any other Government in Lower Canada can be obtained by my continuing to wield extraordinary legal powers, of which the normal force and consideration are gone.

You will easily believe that, after all the exertions which I have made, it is with feelings of deep disappointment that I find myself thus suddenly deprived of the power of conferring great benefits on that province to which I have referred, of

reforming the administrative system there, and eradicating the manifold abuses which have been engendered by the negligence and corruption of former times, and so lamentably fostered by civil dissensions I cannot but regret being obliged to renounce the still more glorious hope of employing unusual legislative powers in the endowment of that province with those free municipal institutions which are the only sure basis of local improvement and representative liberty, of establishing a system of general education, of revising the defective laws which regulate real property and commerce, and of introducing a pure and competent administration of justice Above all I grieve to be thus forced to abandon the realization of such large and solid schemes of colonization and internal improvement as would connect the distant portions of these extensive colonies and lay open the unwrought treasures of the wilderness to the wants of British industry, and the energy of British enterprise

For these objects I have laboured much and received the most active, zealous, and efficient co-operation from the able and enlightened persons who are associated with me in this great undertaking Our exertions, however, will not and cannot be thrown away The information which we have acquired although not as yet fit for the purposes of immediate legislation will contribute to the creation of juster views as to the resources the wants, and the interests of these colonies than ever yet prevailed in the Mother Country To complete and render available these materials for future legislation is an important part of the duties which, as High Commissioner, I have yet to discharge and to which I shall devote the most



Majesty's feet the various high and important commissions with which her royal favours invested me, I shall still be enabled as a Peer of Parliament to render you efficient and constant service in that place where the decisions that affect your welfare are, in reality, made. It must be, I humbly trust, for the advantage of these provinces, if I can carry into the Imperial Parliament a knowledge derived from personal inspection and experience of these interests, upon which some persons, there, are too apt to legislate in ignorance or indifference, and can aid in laying the foundation of a system of general government which, while it strengthens your permanent connection with Great Britain, shall save you from the evils to which you are subjected by every change in the fluctuating policy of distant and successive Administrators.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said province of Lower Canada, the 9th day of October, in the year of our Lord 1838, and in the second year of Her Majesty's reign

By command,

CHARLES BULLER,  
*Chief Secretary.*

## APPENDIX E

THE FOLLOWING IS THE LETTER ON WHICH LORD DURHAM ACTED  
IN THE CASE OF THE PRISONERS SENT TO BERMUDA

condescend to shield ourselves under the provisions of an Ordinance passed by the late Special Council of the province

Permit us then my lord to perform this great duty, to mark our entire confidence in your lordship, to place ourselves at your disposal, without availing ourselves of provisions which would degrade us in our own eyes, by making an unworthy distrust on both sides

With this short explanation of our feelings, we again place ourselves at your lordship's discretion, and pray that the peace of the country may not be endangered by a trial

We have the honour to be my lord, with unfeigned respect, your lordship's most obedient, humble servants

R S M BOUCHETTE,  
WOLFD NELSON,  
R DES RIVIÈRES,  
L H MASSON,  
H A GAUVIN,  
S MARCHESSAUD,  
J H GODDU,  
B VIGER

*Cf Annual Register, 1838 p 273*

## APPENDIX F

### THE AUTHORSHIP OF THE REPORT

It is characteristic of the ill luck that dogged Durham's career that even his authorship of the report should be questioned. This rumour, ascribing the famous state document to Charles Buller and, sometimes to Edward Gibbon Wakefield seems to have originated with Lord Brougham, who was eager to damage the reputation of the Radical earl. "Wakefield thought it, Buller wrote it, Durham signed it," is more epigrammatic than true, and is certainly an injustice to Durham. In the many documents and speeches which he has left concerning the mission to Canada, Charles Buller has never once hinted that he had any part in the writing of the report, but always ascribes it to his leader and friend. Moreover, Lady Durham personally bears witness to her husband's toil in composing this great state paper.

Mr. Egerton, in his *Short History of British Colonial Policy*, declares that Durham wrote the whole of the report himself, but this seems hardly possible, considering the earl's ill-health and the short time allowed him. Certainly the section on Public Lands, although signed by Charles Buller, was most probably inspired by Wakefield. With such able and famous assistants as Buller and Wakefield, it would have been most strange if they had not given him valuable help and advice. In all great public achievements there are always workers behind the scenes to whom, if we but knew, some of the credit is really due. But the main burden and entire responsibility of the whole undertaking lay with Lord Durham. The scheme of the report was entirely his own, as also were those far-reaching recommendations for the future. I think it may be safely considered that the report was, as a whole, the work of Lord Durham and certainly embodied his views. He was too honest to accept praise for other men's work, and too haughty to sign his name to other men's opinions.

## APPENDIX G

ADDRESS PRESENTED TO C. POULETT THOMSON BY THE  
CORPORATION OF TORONTO

*To his Excellency the Right Honourable Charles Poulett Thomson,  
one of Her Majesty's most Honourable Privy Council  
the Governor General of all Her Majesty's Possessions in  
British North America, etc., etc*

May it please your Excellency,

We, Her Majesty's loyal subjects, the mayor, aldermen, and commonalty of the city of Toronto, influenced by the respect due to the Representative of our gracious Sovereign, beg leave to congratulate your Excellency on your arrival in this city.

Amid the doubts and incertitude which the frequent changes of Governors and Lieutenant-Governors of these Provinces and of the policy of the Imperial Parliament with regard to them, have created in the minds of the loyal and well-affected inhabitants, we would fain hail the arrival of your Excellency as the advent of a more certain, permanent, and prosperous condition

of our commercial social and political relations which will restore to prosperity the commerce and agriculture of the Province give a new impulse to internal improvements and encourage the emigration of our loyal fellow subjects from the mother country to this important appendage to the British Crown

Having understood that one of the principal objects of your Excellency's visit to this Province and of your assuming the government thereof is to ascertain the state of public opinion upon the question of the proposed Legislative Union of the Provinces of Upper and Lower Canada we beg respectfully to express our conviction that any Legislative Union which shall not be predicated upon the ascendancy of the loyal portion of the inhabitants or which shall give to that portion of the population who from education habits and prejudices are aliens to our nation and our institutions and to that part of it more particularly which has been engaged in open rebellion or treasonable conspiracy against the Government the same rights and privileges with the loyal British population of the Provinces who have adhered so zealously and faithfully at the risk of their lives and property to their Sovereign and Constitution would be fatal to the connection of these Provinces with the parent country

Faithful in our allegiance to our Sovereign and calmly but earnestly determined as far as depends upon us the highest municipal body in the Province to perpetuate the connection with the parent state your Excellency may confidently rely on our cordial support in whatever measures you may think advisable to adopt tending to maintain that connection and to uphold the cherished constitution under which we live and which we are firmly resolved to the utmost of our power to preserve inviolate and unchanged

(Signed) JOHN POWELL Mayor

COUNCIL CHAMBER

18th Nov 1839

Cf G P Scrope *Memoir of the Life of the Rt Hon Charles Lord Sydenham* pp 139-40

## APPENDIX H

DISPATCH FROM LORD JOHN RUSSELL TO THE RIGHT HONOURABLE  
C. FOLETT THOMSON

DOWNING STREET,

16th Oct, 1839

Sir,

I am desirous to direct your attention to the tenure on which public offices in the gift of the Crown appear to be held throughout the British Colonies. I find that the Governor himself, and every person serving under him, are appointed during the royal pleasure, but, with this important difference—the Governor's Commission is in fact revoked whenever the interests of the public service are supposed to require such a change in the administration of local affairs but the commissions of all other public officers are very rarely indeed recalled, except for positive misconduct. I cannot learn that during the present or last two reigns, a single instance has occurred of a change in the subordinate colonial officers, except in cases of death or resignation, incapacity or misconduct. This system of converting a tenure at pleasure into a tenure for life originated probably in the practice, which formerly prevailed, of selecting all the higher class of colonial functionaries from persons who, at the time of the appointment were resident in this country, and amongst other motives which afforded such persons a virtual security for the continued possession of their places it was not the least considerable that, except on these terms, they were unwilling to incur the risk and expense of transferring their residence to remote and often to unhealthy climates. But the habit which has obtained of late years of preferring, as far as possible, for places of trust in the Colonies, persons resident there, has taken away the strongest motive which could thus be alleged in favour of a practice to which there are many objections of the greatest weight. It is time, therefore, that a different course should be followed, and the object of my present communication is to announce to you the rules which will be hereafter observed on this subject in the Province of Lower Canada.

You will understand and will cause it to be made generally known that hereafter the tenure of Colonial offices held during Her Majesty's pleasure will not be regarded as equivalent to a tenure during good behaviour but that not only such officers will be called upon to retire from the public service as often as any sufficient motives of public policy may suggest the expediency of that measure but that a change in the person of the Governor will be considered as a sufficient reason for any alterations which his successor may deem it expedient to make in the list of public functionaries subject of course to the future confirmation of the Sovereign

These remarks do not extend to judicial offices nor are they meant to apply to places which are altogether ministerial and which do not devolve upon the holders of them duties in the right discharge of which the character and policy of the Government are directly involved They are intended to apply rather to the heads of departments than to persons serving as clerks or in similar capacities under them neither do they extend to officers in the service of the Lords Commissioners of the Treasury The functionaries who will be chiefly though not exclusively affected by them are the Colonial Secretary the Treasurer or Receiver General the Surveyor General the Attorney and Solicitor General the Sheriff or Provost Marshal and other officers who under different designations from these are entrusted with the same or similar duties To this list must also be added the Members of the Council especially in those colonies in which the Executive and Legislative Councils are distinct bodies

The application of these rules to officers to be hereafter appointed will be attended with no practical difficulty It may not be equally easy to enforce them in the case of existing officers and especially of those who may have left this country for the express purpose of accepting the offices they at present fill Every reasonable indulgence must be shown for the expectations which such persons have been encouraged to form but even in these instances it will be necessary that the right of enforcing these regulations should be distinctly maintained in practice as well as in theory as often as the public good may clearly demand the enforcement of them It may not be unadvisable to compensate any such officers for their disappointment even by pecuniary grants when it may

appear unjust to dispense with their services without such an indemnity.

I have, etc.,

(Signed) J. RUSSELL.

Cf. W. P. M. Kennedy: *Documents of the Canadian Constitution* (1759-1915), pp. 524-5.

## APPENDIX I

DISPATCH FROM LORD JOHN RUSSELL TO C. POULETT THOMSON

DOWNING STREET,

14th October, 1839.

Sir,

It appears from Sir George Arthur's dispatches that you may encounter much difficulty in subduing the excitement which prevails on the question of what is called "Responsible Government." I have to instruct you, however, to refuse any explanation which may be construed to imply an acquiescence in the petitions and addresses upon this subject. I cannot better commence this dispatch than by a reference to the resolutions of both Houses of Parliament, of 28th April and 9th May in the year 1837.

The Assembly of Lower Canada having repeatedly pressed this point, Her Majesty's confidential advisers at that period thought it necessary not only to explain their views in the communications of the Secretary of State, but expressly called for the opinion of Parliament on the subject. The Crown and the two Houses of Lords and Commons having thus decisively pronounced a judgment upon the question, you will consider yourself precluded from entertaining any proposition on the subject.

It does not appear, indeed, that any very definite meaning is generally agreed upon by those who call themselves the advocates of this principle, but its very vagueness is a source of delusion, and if at all encouraged, would prove the cause of embarrassment and danger.

The constitution of England, after long struggles and alternate success, has settled into a form of government in

which the prerogative of the Crown is undisputed, but is never exercised without advice. Hence the exercise only is questioned, and, however the use of the authority may be condemned, the authority itself remains untouched.

This is the practical solution of a great problem, the result of a contest which, from 1640 to 1690, shook the monarchy and disturbed the peace of the country.

But if we seek to apply such a practice to a colony, we shall at once find ourselves at fault. The power for which a minister is responsible in England is not his own power, but the power of the Crown, of which he is for the time the organ. It is obvious that the executive councillor of a colony is in a situation totally different. The governor under whom he serves, received his orders from the Crown of England. But can the colonial council be the advisers of the Crown of England? Evidently not, for the Crown has other advisers, for the same functions, and with superior authority.

It may happen therefore, that the Governor receives at one and the same time instructions from the Queen, and advice from his executive council, totally at variance with each other. If he is to obey his instructions from England, the parallel of constitutional responsibility entirely fails, if, on the other hand, he is to follow the advice of his council, he is no longer a subordinate officer but an independent sovereign.

There are some cases in which the force of these objections is so manifest, that those who at first made no distinction between the constitution of the United Kingdom, and that of the colonies admit their strength. I allude to the questions of foreign war, and international relations, whether of trade or diplomacy. It is now said that internal government is alone intended.

But there are some cases of internal government in which the honour of the Crown, or the faith of Parliament, or the safety of the State are so seriously involved that it would not be possible for Her Majesty to delegate her authority to a ministry in a colony.

I will put for illustration some of the cases which have occurred in that very province where the petition for a responsible executive first arose—I mean Lower Canada.

During the time when a large majority of the Assembly of Lower Canada followed M. Papineau as their leader, it was obviously the aim of that gentleman to discourage all who did



their duty to the Crown within the province, and to deter all who should resort to Canada with British habits and feelings from without. I need not say that it would have been impossible for any minister to support, in the Parliament of the United Kingdom, the measures which a ministry, headed by M. Papineau, would have imposed upon the Governor of Lower Canada; British officers punished for doing their duty; British emigrants defrauded of their property; British merchants discouraged in their lawful pursuits—would have loudly appealed to Parliament against the Canadian ministry, and would have demanded protection.

Let us suppose the Assembly, as then constituted, to have been sitting when Sir John Colborne suspended two of the judges. Would any councillor, possessing the confidence of the Assembly, have made himself responsible for such an act? And yet the very safety of the province depended on its adoption. Nay, the very orders of which your Excellency is yourself the bearer, respecting Messrs. Bedard and Panet, would never be adopted, or put in execution by a ministry depending for existence on a majority led by M. Papineau.

Nor can any one take upon himself to say that such cases will not again occur. The principle once sanctioned, no one can say how soon its application might be dangerous, or even dishonourable, while all will agree that to recall the power thus conceded would be impossible.

While I thus see insuperable objections to the adoption of the principle as it has been stated, I see little or none to the practical views of colonial government recommended by Lord Durham, as I understand them. The Queen's Government have no desire to thwart the representative assemblies of British North America in their measures of reform and improvement. They have no wish to make those provinces the resource for patronage at home. They are earnestly intent on giving to the talent and character of leading persons in the colonies, advantages similar to those which talent and character, employed in the public service, obtain in the United Kingdom. Her Majesty has no desire to maintain any system of policy among her North American subjects which opinion condemns. In receiving the Queen's commands, therefore, to protest against any declaration at variance with the honour of the Crown, and the unity of the Empire, you are at the same time instructed to announce Her Majesty's gracious intention to

look to the affectionate attachment of her people in North America as the best security for permanent dominion.

It is necessary for this purpose that no official misconduct should be screened by Her Majesty's representative in the provinces; and that no private interests should be allowed to compete with the general good.

Your Excellency is fully in possession of the principles which have guided Her Majesty's advisers on this subject; and you must be aware that there is no surer way of earning the approbation of the Queen than by maintaining the harmony of the executive with the Legislative authorities.

While I have thus cautioned you against any declaration from which dangerous consequences might hereafter flow, and instructed you as to the general line of your conduct, it may be said that I have not drawn any specific line beyond which the power of the Governor, on the one hand, and the privileges of the Assembly on the other, ought to extend. But this must be the case in any mixed government. Every political constitution in which different bodies share the supreme power, is only enabled to exist by the forbearance of those among whom this power is distributed. In this respect the example of England may well be imitated. The sovereign using the prerogative of the Crown to the utmost extent, and the House of Commons exerting its power of the purse, to carry all its resolutions into immediate effect, would produce confusion in the country in less than a twelvemonth. So in a colony; the Governor thwarting every legitimate proposition of the Assembly, and the Assembly continually recurring to its power, of refusing supplies, can but disturb all political relations, embarrass trade, and retard the prosperity of the people. Each must exercise a wise moderation. The Governor must only oppose the wishes of the Assembly where the honour of the Crown or the interests of the Empire are deeply concerned; and the Assembly must be ready to modify some of its measures for the sake of harmony, and from a reverent attachment to the authority of Great Britain.

I have, etc.,

(Signed) J. RUSSELL.

Cf. W. P. M. Kennedy: *Documents of the Canadian Constitution* (1759-1915), pp. 522-4.

## APPENDIX J

ROBERT BALDWIN'S PROPOSALS TO THE LEGISLATIVE ASSEMBLY  
OF CANADA, ON 3 SEPTEMBER, 1841

(1) THAT the most important as well as the most undoubted of the political rights of the people of this Province is that of having a Provincial Parliament for the protection of their liberties, and for the exercise of their constitutional influence over the Executive Departments of their Government, and for legislation upon all matters which do not, on the grounds of absolute necessity, constitutionally belong to the jurisdiction of the Imperial Parliament, as the paramount authority of the Empire.

(2) That the head of the Provincial Executive Government of the Province being, within the limits of his Government, the representative of the Sovereign, is not constitutionally responsible to any other than the authorities of the Empire.

(3) That the representative of the Sovereign for the proper conduct and efficient disposal of the public business is necessarily obliged to make use of the advice and assistance of subordinate officers in the administration of his Government.

(4) That in order to preserve that harmony between the different branches of the Provincial Parliament, which is essential to the happy conduct of public affairs, the principal of such subordinate officers, the advisers of the representative of the Sovereign, and constituting as such the Provincial administration under him as the need of the Provincial Government, ought always to be men possessed of the public confidence, whose opinions and policy harmonizing with those of the representatives of the people, would afford a guarantee that the well-understood wishes and interests of the people, which Our Gracious Sovereign has declared shall be the rule of the Provincial Government, will at all times be faithfully represented to the head of that Government, and through him to the Sovereign and Imperial Parliament.

(5) That, as it is practically always optional with such advisers to continue in or retire from office at pleasure, this House has the constitutional right of holding such advisers politically responsible for every act of the Provincial

Government of a local character, sanctioned by such Government while such advisers continue in office

(6) That, for the like reason, this House has the constitutional right of holding such advisers in like manner responsible for using while they continue in office their best exertions to procure from the Imperial Authorities the exercise of their right of dealing with such matters affecting the interests of the Province as constitutionally belong to those authorities in the manner most consistent with the well understood wishes and interests of the people of this Province

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